White Paper on The Planning Act

BACKGROUND PAPER 1

Response to the Report of The Planning Act Review Committee

Government of Ontario

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WHITE PAPER
ON THE PLANNING ACT
Background Paper 1

ANALYSIS OF THE RESPONSE TO THE REPORT OF THE PLANNING ACT REVIEW COMMITTEE

Prepared for the Ministry of Housing by
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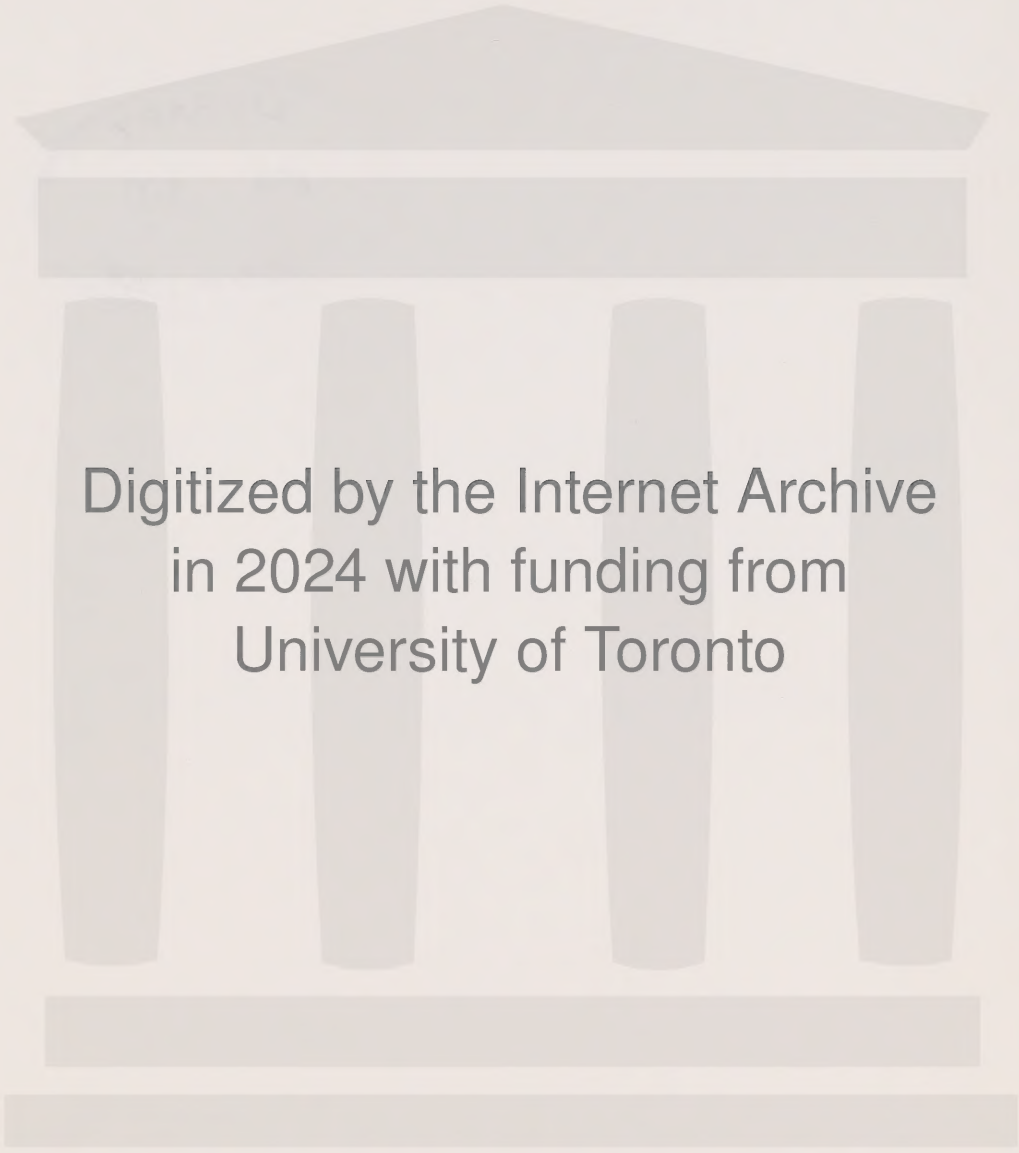
May 1979



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PREFACE

One of the main resources drawn upon in preparing the Government White Paper on The Planning Act by the Ministry of Housing has been the response received to the Report of the Planning Act Review Committee published in June 1977. This report, prepared for the Ministry by Llewelyn-Davies Weeks Canada Ltd. presents a detailed analysis of those submissions.

The submissions themselves are available for reference in the offices of the Ministry of Housing.

INTRODUCTION

The Report of The Planning Act Review Committee was published in the spring of 1977 and circulated to the public for comment from June till December 1977.[1] In total, over 350 briefs were received from municipalities (local and regional/county), planning boards, legal, development planning, architectural and community associations and individuals.[2] The submissions varied in detail from analyses of each proposal to general comments and discussion of a few issues.

The purpose of this report is to analyze the responses and indicate the various positions on the proposed reforms. Certain qualifications, however, must be emphasized in interpreting the results. The first is that this report is presenting a summary of the various comments and as such, not every point could be quoted, although most views are acknowledged. The second and more important issue is that a number of briefs indicated general agreement with the Report and, in their discussion, concentrated only on concerns or disagreements. Very few submissions dealt at length with the entire Report or with each of the proposals endorsed. Thus, in the Analysis of the Responses, there is inevitably an overemphasis of the reservations about the Report and an understatement of the support. A further point is that not all briefs referred to the same source: some dealt with the body of the Report; the majority responded to the Summary Proposals; and others used the Housing Ontario summary version. As a result there is occasionally some confusion about the proposals, depending on which source was used. Despite these qualifications, some conclusions can be drawn about the proposals and about the type of planning system that is publicly endorsed.

The reforms proposed in the PARC Report are based on certain fundamental principles, the most pervasive of which are local autonomy and

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1 See Appendix I for letter from Minister of Housing.

2 For breakdown of submissions, see Appendix II.

accountability. These principles underlie many of the major proposals such as the provincial veto, assignment of residual planning powers to municipal councils and changes to the role of the Ontario Municipal Board. Accountability, in particular, is emphasized in a variety of ways including the requirements that planning policy decisions be made by elected representatives; that persons making the decisions must be visible; reasons for decisions must be stated; each government level or authority must not act beyond its defined interests; and in general, that those who have power also accept the responsibilities encumbent on such authority including the observance of due process. In general, the response to the Report shows more support for those proposals emphasizing local autonomy than those promoting accountability. However, at the root of the issue is a dichotomy expressed throughout the responses: on the one hand, a desire for increased local planning powers, and on the other, fear of final responsibility and a concern that secure safeguards be retained within the system.

The following overview summarizes the position of the submissions on several of the major reforms and gives a general indication, from the standpoint of the briefs, of what should be changed in the planning system as well as what should be retained.

Overview

Provincial Role

- Interests related to Province-wide needs, defined in legislation.
- Retention of approval of municipal plans, on the basis of defined provincial interests.
- Resolution of intermunicipal disputes.
- Provincial policies, advice and assistance.
- Rural consent policies.

Municipal Planning Authority

- Direct assignment of residual planning authority to municipal councils, including subdivisions and environmental assessment of major private undertakings.
- Retention of planning boards (joint and local).
- Retention of land division committees and committees of adjustment for the granting of consents.
- Creation of permanent, standing, inter-regional planning committees.
- Regional interests defined in legislation.
- Regional objection to local planning actions on basis of formal policy.

- Legal conformity of local to regional plans.
- No regional, zoning or development review powers.

Municipal Plans

- No mandatory planning.
- Mandatory requirement to adopt planning statements as basis for the exercise of any statutory authority.
- Option of comprehensive plans or individual planning policy statements.
- No prescribed scope and content; requirement for statement of objectives and means of achievement.
- Retention of legal status of plans.
- Periodic review by council.

Public Involvement and Process Requirements

- Procedures for public involvement in plans to be described in a planning statement.
- Formal rights for community groups.

Ontario Municipal Board

- Retention of existing appeal functions and approval powers except for zoning by-laws to which there are no objections.
- Objections to be accompanied by stated reasons.
- Rules of procedure for petitions to Cabinet.

Development Control

- Zoning improvements including interim by-laws, temporary use by-laws, bonus zoning and transfer of development rights.
- Zoning agreements.
- Five-year review of by-laws.

Subdivision Approvals

- Specified circulation of subdivision plans; regard to be given to comments of agencies circulated.
- Matters to be specified for draft subdivision approval.
- Conditions and agreements restricted to matters that are reasonably related to the subdivision.
- Rationalization of matters to which regard is to be given.
- Parkland dedication at one acre per 120 dwelling units (or 5 per cent) based on planning statement; municipalities may require cash in lieu.

Compensation and Reservation of Land for Public Use

- Downzoning without compensation.
- Municipal powers to purchase development rights of unique properties.
- Reservation of private lands for future public use by zoning for five years.

Others

- Prohibition of exclusionary planning practices.
- $100 fee for consent and variance applications.

This summary inevitably oversimplifies the position on many of the reforms. There was some, and often considerable, endorsement of most recommendations. The only proposals that were clearly unacceptable were those to change the role of the Ontario Municipal Board, require councils to hold public hearings on all planning proposals, review plans once in the lifetime of each council and to remove the legal status of official plans. On several of the major reforms such as the provincial veto, provincial or regional development standards, process requirements for all planning actions, development review powers and planning provisions for the North there was a range of opinion and no consensus.

What emerges from the overview is that some of the positions endorsed appear to be contradictory. There is general support for more municipal planning authority and a more flexible planning approach, and at the same time, a desire to retain aspects of the provincial approval function and the OMB in its entirety with some operational improvements. Underlying this apparent inconsistency, however, is a substantial agreement with the philosophy of increased local planning autonomy, but a desire for a more evolutionary process of change than the direct assignment espoused in the Report.

Basis of the Reforms

The first three chapters of the PARC Report describe the background, philosophy and principles of the reforms, including the approach to change, philosophy of government, allocation of planning powers, nature of the legislation, purpose of planning and burden of proof. A review of the comments on these chapters indicates some of the general reactions to the recommendations proposed.

a) Approach to Change

Opinions on the extremity of the proposals varied with the degree of change felt necessary in the system. Those municipalities that desired a complete overhaul of the system found the proposals as a whole too moderate; others who were more conservative in their expectations found the Report too radical and extreme. On the basis of the overview presented above and the disagreement with some of the more dramatic changes.

proposed, e.g. provincial veto and overhaul of the OMB, it might be concluded that the thrust of the reforms was considered to be too radical, and that what is endorsed would result in few changes to the existing planning system. The viewpoints expressed on individual proposals, however, might have little to do with the respondents' concerns about the degree of change felt necessary in the system.

The position of those who felt the reforms are too extreme is described in the following comments which also indicate some of the recurring criticisms made about individual proposals.

- We are opposed to the radical revision being proposed. This would undermine the credibility of the entire planning system in effect to date. In order to retain any sort of consistency in the Province, a certain number of the final planning decisions must remain at the upper level of government. The proposed system would be smothered in red tape and political pressure. Much of the progress achieved so far would be destroyed. The existing Planning Act should merely be modified and streamlined, rather than changed to an unrecognizable form.

- We are of the opinion that the major reform recommendations are radical changes and that the procedural and structural modifications flowing therefrom would produce, in magnified form, the flaws identified as now existing. We ask that the criteria set by the Committee to evaluate the existing system be applied to the recommendations. And we ask that the Committee's conclusions be evaluated as to whether they support the fundamental principles of certainty, predictability and relatively expeditious decision-making based on merits and determined on the weight of the evidence.

A few briefs criticized the Report for not adhering to certain of the recommended principles regarding change. Specifically, it was suggested that the proposals do not reflect the Report's assumptions that changes to the existing planning system would be applied differentially to meet different circumstances and situations, and that changes should not further complicate the system nor lead to unpredictable consequences. The first concern — unsatisfactory consideration of the need for differential change — was mentioned by a number of small communities who felt that the proposed responsibilities would be far too onerous and cumbersome for their means of operation, and by municipalities in Northern Ontario who felt their needs had not been adequately addressed.

The second point — disregard for the principle that change should not lead to further complications nor unpredictable consequences — was referred to specifically in connection with the proposals for incremental planning statements, plan review by each successive council, process requirements and revisions to the OMB. Some of the criticisms were made by those who view increased responsibilities as a further complication of the system. However, on the question of "unpredictable consequences", the Report is ambiguous about what is actually intended. From the nature of the proposals, it would appear that the Report is referring primarily to unpredictable planning processes that should be avoided, rather than unpredictable outcomes. There is strong emphasis in many of the reforms on ensuring consistent and predictable procedures. Whether predictable results could be guaranteed in legislation is open to question. Nevertheless, the Report does not differentiate between these two possible interpretations.

b) Philosophy of Government and Allocation of Planning Authority

On the face of it, there were few specific arguments with the Report's principles regarding the philosophy of government, which is that policy decisions should be made by those elected to make decisions; that such decisions should be made accountably; and that apart from observing due process, there should be no built-in constraints (except for overriding provincial or judicial constraints) that limit the ability of an elected council to establish its own policies even where this involves substantial changes from the policies of previous councils. In this regard, the proposals to assign municipal planning authority directly to municipal councils and to require appropriate planning statements as the basis for any statutory authority were strongly supported.

The general concerns were that this approach favoured the developer and the politician, and that more checks and balances should be retained within the system to ensure consistency. In addition, the negative response to some of the proposals that incorporate these principles — provincial veto to be imposed by the Minister, OMB to report to the Minister/council, requirements for councils to hold public hearings on all planning proposals, the review of plans once

in the lifetime of each council — suggests that in fact, these principles are not totally endorsed. Reasons given for not supporting such proposals indicate that expediency and mistrust of political decision-making frequently are considered to be more important than accountability throughout the planning system.

Regarding the allocation of planning authority, the Report suggests, in essence, that no level of government should act beyond its own explicitly defined interests, and that there should be as much planning autonomy as possible at the lowest level of government. There was considerable support for both principles. The problems that were cited were in connection with those proposals defining upper-tier interests and assigning planning powers to municipal councils. The concerns were that the boundaries between provincial, regional and local interests would be difficult to define; that municipalities would require financial assistance to administer the increased responsibilities; and that the proposed assignment should be phased in gradually over time. There was also a general concern that the principle of local autonomy was applied in an inconsistent and confusing fashion. This point was made in reference to the proposed base level rural zoning by-law and establishment of development standards. These proposals were not seen, as intended, as direct policy applications of stated provincial interests.

c) Characteristics of Legislation

A few briefs commented specifically on the proposed characteristics of planning legislation. Two submissions suggested that legislation should be written clearly and intelligibly and that Latin and pseudo-legal jargon should be eliminated from the Act; another expressed concern about the Report's emphasis on the use of regulations which, it was feared, were not given proper public scrutiny through the process of legislative debate. Other concerns mentioned were that some of the proposals (no legal status of plans, reform of the OMB) contradicted the described legislative principles of reliability, predictability and economy in time and cost. The problem is that while all of the proposed characteristics are desirable, they are not mutually exclusive, and upon application to a particular proposal may be seen as conflicting or contradictory.

This was pointed out, for example, in reference to the suggested process requirements which were intended to provide some certainty and reliability in the process and were criticized for being too time-consuming and leading to unpredictable results.

d) Purpose of Planning

Of the few briefs (primarily from special interest groups and individuals) that commented on the suggested purpose of municipal planning, most disagreed that it should be concerned only with the physical development of the community, and that its primary purpose is to establish and carry out municipal policies and programs for the rational management of the municipality's physical development. The overall concern was that the definition was too restricted in scope and did not adequately recognize emerging trends in social and economic planning. However, there was no consensus on the proposals that in the formulation of plans, municipalities be required to do more or less than have regard for social, economic and environmental consequences of their proposed planning actions. In fact, many municipalities were satisfied that these concerns were adequately dealt with in the Report. There was also substantial agreement that these issues would be more appropriately dealt with in the suggested scope of provincial and regional planning interests.

e) Burden of Proof

There was general disagreement with the Report's conclusion regarding the burden for intervention in private development. The Report suggests that the planning system should not be directed toward the justification of development proposals, but the onus should rest equally firmly on the government to demonstrate why private parties should not be allowed to do what they want. The view of those opposed was that an undue burden would be placed on the municipal council. It was suggested that instead, there should be some room for a compromise whereby the development proponent must provide a degree of justification and the council must justify the reasons for rejecting or modifying the proposal. In this regard, there was unanimous support for the proposals that, if subdivision

approval is refused, the approving authority must state reasons, and that in all cases, the Minister must state the basis for his decisions.

Note

Where the term "majority" is used in this report to indicate support or disagreement, the position represents 66 per cent or more of the comments on the particular proposal. Proposal numbers refer to the chapter and paragraph numbering in the PARC Report, not to the Summary Proposals.

1 THE PROVINCIAL ROLE IN MUNICIPAL PLANNING

The basic thrust of the proposals to change the provincial role in municipal planning is to make the system less arbitrary and time-consuming, and more accountable and supportive of local planning autonomy. Of the various proposals in this regard, there was considerable support for those recommending the definition of provincial interests in legislation; the elaboration of provincial interests in policy statements; continued provision of provincial guidance and assistance; rural consent policies; regulations for ministerial discretion; and the jurisdiction of municipal planning controls over the development of certain provincial facilities. There was less consensus on the provincial veto, basis for withholding assignment of municipal planning powers, base-level rural zoning by-law and curtailment of interest in "good planning". In essence, there is support for defining and thereby limiting the scope of provincial interests and jurisdiction, but reservations about the application of these interests at the local level. The methods of protecting such interests were often considered to represent a constraint on local autonomy. There was far more encouragement of a less formal approach involving provincial assistance, consultation and guidelines than there was for the veto and various regulations.

Frequently mentioned concerns about the proposals were with reference to their workability and implied uniformity of their application which, it was feared, would not adequately take account of local diversity. Other general comments on the chapter were as follows:

a) Provincial-Municipal Relationship

- A clearer perspective of the provincial-municipal relationship in planning is necessary... There is merit in seeking to define the roles of government in Ontario's planning system without rigidly trying to separate the specific interests of government within the municipal planning system.

- It will be difficult to clearly define interests at each level of government without having conflicting policies.

- Any changes in the existing division of powers will create a dilemma since the objectives and resources of the Province differ from those of the municipalities. The underlying cause of this problem is the current system of revenue-sharing between the governments and the difficulties of municipal financing.

- We view the proposed provincial role as imperative to balance the increased local autonomy in municipal planning. If the planning system were reformed as the Report suggests, then the consequences of the Province not acting in its proper role could be more serious than is currently the case.

- The proposals fail to provide a solution to the crucial needs for coordination of government planning action at municipal and provincial levels, for a continuous process that can respect changing circumstances, deal with the evolution of our communities and provide for new initiatives from various quarters.

- The roles of other public agencies such as school boards and conservation authorities are not suitably coordinated within the planning system.

b) Provincial Activities

- As part of the implementation of provincial policies, financial incentives should be provided to local municipalities to provide servicing schemes in order to open up new lands for development.

- The Province should lay out its long-term plans as to such matters as transportation and growth estimates and municipal plans should have to conform to them.

c) Contradictory Proposals

- The level of provincial scrutiny of the local planning process is contradictory and confusing. Some proposals imply local autonomy and others a provincial presence to overrule portions of such plans. Nowhere is it made clear to what degree each of the principles will apply in a given situation.

Provincial Interests

A number of municipalities commented on the definition of provincial interests proposed in 4.2 and were in substantial agreement with the proposal. Concerns were expressed, however, with the overall

generality of the definition and that the Province should develop policy statements to further elaborate these interests. General comments on the proposal were as follows:

- Although the Report seeks to define the provincial interest, it appears to be vaguely outlined and subject to considerable value judgment. Past experience has indicated that the provincial interest often is comprised of several conflicting goals. For example, "protection of the natural environment", if taken to extremes, may well conflict with "maintenance of the provincial financial well-being".

- The proposal is broad enough in scope to cover the provincial interest and definitive enough so as not to unduly restrict a municipality's planning policies and programs. The workability of this proposal, however, depends on the Province formalizing its policies and making this information readily available to municipalities, as suggested in proposal 4.10.

- The fact that the Province funds something should not automatically make that item part of the defined provincial interest and, therefore, the basis for provincial intervention in municipal planning.

- In establishing the extent of provincial interests, these need not necessarily be uniform across the Province and may vary substantially from place to place.

- The definition of provincial interest should also include provincial policies and obligations.

Other specific suggestions were:

- Although the Province should remain the final arbiter of unresolved intermunicipal disputes, municipalities should first have an opportunity to work out their disputes by developing some form of voluntary coordination and negotiation.

- The provincial interest should be more broadly defined to include minimal requirements for the formulation of municipal plans.

- Provincial powers should be expanded to include leadership; protection of groups with special needs; and ensuring of continuity.

- The policy does not specifically address a suitable landscape that promotes the well-being of society.

- The Province's interest in the "protection of the natural environment" should relate to basic provincial concerns and not specific local situations.

Provincial Interests Defined in Legislation

A significant number of briefs agreed with the proposal (4.4) that provincial interests should be formally defined in legislation. Suggestions on this matter included the following:

- Provincial interests should be defined in a series of statements, including legislation, policy statements, orders-in-council and in recommended standards. Although legislation should contain some general enabling statements, the other more flexible means, such as orders-in-council or regulations, should be used to enable provincial policies to respond quickly to changing provincial directions and priorities.

- This is an excellent proposal provided that in defining provincial interests and ensconcing them in legislation and regulations, unwarranted rigidity and erosion of municipal autonomy in planning is not introduced.

- Inevitable later changes in the provincial interests will require changes to the statute. The process of using Minister's Orders would be more effective, especially if published in the Ontario Gazette for 30 days for comment.

- We support formal definition of the provincial interest in municipal planning, but it is difficult to imagine policies broad enough for all municipalities and still meaningful. If stated by the Province, policy is likely to be in broad general terms which would be left to interpretation by a bureaucrat and not to elected officials.

Provincial Interest in Good Planning

Opinion was split over whether or not the Province should have a specific interest in "good planning" at the local level. Comments on the proposal (4.3) that the Province not have an interest in whether municipalities engage in "good planning" ranged from hearty endorsement to the view that the proposal was "horrid". Some were concerned about the ability of small municipalities to carry out "good planning"; others felt the statement was contradictory since the proposed provincial interests, rural zoning and development standards in themselves involve judgments about good planning. Occasionally, disagreement with the proposal stemmed from confusion about its intent. Concerns were expressed that this proposal implied the Province would ignore local discriminatory behaviour and would not ensure coordination of interests of abutting municipalities nor adequate access of affected individuals to the planning process. These issues, however, are covered in recommendations elsewhere in the Report.

General comments on the proposal were:

- The provincial interests as outlined in 4.2 are sufficiently broad as to secure, in practice, an involvement in "good planning" at the municipal level. However, if the Province so details its interests in terms of policies and programs, the concern, or lack thereof, for "good planning" would be extremely academic; local norms and standards could be eclipsed.

- It is difficult to determine how good planning will simply be a matter of local norms and standards when the Province is going to have a major interest in what happens with the "rural land base".

- Without opening the whole issue of professional licensing, the definition of good planning and the role of the various professionals is an area which needs to be looked at. Nowhere in the Report is the role and responsibility of various professional groups involved in planning spelled out.

- We would expect that any new legislation would be designed with a view to ensuring and protecting the occurrence of sound planning by all levels of government.

- Local norms and standards may be incompatible with long term planning objectives of society at large. This could lead to decisions based on political expediency rather than sound planning principles.

Those who felt the Province should have a vested interest in good planning made the following comments:

- Contrary to the Review Committee's view, the Province should be concerned that a municipality engages in "good planning". If the Province is to ensure the implementation of its policies and programs, it must endeavour to ensure that good planning practices are initiated equally by all municipalities.

- Since 60% to 75% of municipal budgets are subsidized by the Province, it is a provincial duty to see to it that councils do not make bad plans which will have to be rectified with provincial aid later. If there is no such thing as "good planning" then why indulge in it?

- The Province should be concerned with "good municipal planning" because municipalities range in size, complexity and financial capabilities which limit their resources for good planning.

Provincial Intervention in Municipal Planning

One of the more contentious issues in the Report is the proposal (4.5, 4.6) to change the form of provincial intervention in local planning

from supervision and approval to a system of monitoring and veto by Cabinet. There was little consensus on this proposal: more than one/third (upper- and lower-tier municipalities) supported the suggested change; another group agreed with the principles of the reform, but held certain reservations about the proposed veto; and several interest groups (lawyers, developers, planners) opposed it altogether and recommended retention of provincial approval.

The basic questions regarding the proposal centred on whether or not the Province should continue to approve all municipal planning decisions, and whether the veto is the most appropriate form of provincial intervention. In general, the veto was not acceptable to the majority of respondents; nor, as illustrated by the responses to other proposals (see Municipal Plans), is the total relinquishing of the provincial approval function. However, there was some consensus that the present system of provincial approval of all municipal planning actions be modified by a formal procedure limiting provincial intervention to matters where defined provincial interests exist, and preferably, where policy has been stated.

Few comments were made by those who supported the proposed changes. The following points are representative of their views:

- The reversal of the provincial role from that of an approving body to that of a body that ensures that provincial interests are not impaired is welcomed.

- We agree with this proposal since it maintains the proper lines of accountability for planning decisions. Most importantly, it will force the Province to develop stated policies of provincial interest.

- It is obvious that the Province will have to maintain some method of ensuring its interests are not impaired and the possibility of establishing procedures whereby the Province can veto municipal actions would appear to be a reasonable alternative. Our concerns are that the veto be exercised in accordance with the conditions elaborated in the Report.

The group that held mixed views on the proposal questioned the notion of the veto as being the most appropriate form of intervention. Reservations about the veto centred on its administrative and political practicality, the absence of a third party appeal and the lack of a time limit in which to register the veto. Regarding the latter point,

the Report does propose a 60-day time limit on the veto; unfortunately, this is not mentioned until later in the Report (8.26) and is omitted altogether from the Summary. A further point of concern was the connotation of the veto, which a number of briefs construed to mean a process of confrontation that did not permit negotiation or compromise. However, the Report specifically states (4.6) that the veto should not be arbitrary; that "it should be taken after proper consideration of the local interests involved; it should be preceded by suitable consultation with the municipal council and its officials". Although a negotiation process was intended by the Report, perhaps this point should be further elaborated.

The opinions of this group are as follows:

- There is no theoretical problem with the Province simply monitoring municipal decisions rather than approving documents. However, there are practical problems in maintaining a level of staff knowledge sufficient to recommend a veto. There are also partisan political considerations which may inhibit or distort the use of ministerial veto. It is unrealistic to rely on the veto as the main tool of provincial control.

- In practice, exercising the veto might become quite cumbersome, considering the existing provincial bureaucratic system.

- While a veto structure may enhance the accountability profile of the elected Minister, we feel there is no saving in processing time.

- The municipality must ascertain whether or not a veto will occur; therefore delays in the process are still likely.

- The main reason for concern is that the provincial veto would not actually be exercised by the Minister of Housing but in practice would be a decision of his staff.

- The power to veto municipal plans is administratively and politically impossible. The Province would have to know everything that is going before each municipality's council. Furthermore, it is very politically difficult for the Province to act against a municipality through vetoing since it would be blamed for interfering. On the other hand, if it did not exercise its veto and things went wrong, it would be blamed for not exercising its responsibility. It should also be observed that this proposed provincial power to veto does not provide a means of resolving an issue and is, therefore, a poor process for arriving at a satisfactory answer.

- The Report does not explain how the Province would force municipalities to carry out provincial policies and goals. A veto will have no effect if there is no action on the part of municipalities.

- What recourse has a municipality to a provincial veto of a strongly held municipal conviction?

- We would like to see some elaboration as to the mechanism which would permit the Province to review municipal planning actions to ensure that provincial interests are protected. How can coordination be ensured when the Province exercises only a veto and not a positive coordination system?

- We support the principle of the Province ceasing to be responsible for supervising all municipal planning actions... However the provincial veto is unacceptable since there are no provisions for appeal to a third party.

- To suggest that the policy positions of the various ministries can be dealt with satisfactorily at the Cabinet level is unlikely... It is doubtful that Cabinet could afford the time necessary to consider the merits of each matter.

- While we endorse the idea of the veto, it requires further explanation — what it is, how it would be exercised, what effects it would have — before being incorporated in legislation.

A third group disagreed with the proposed changes to the existing system and favoured retention of the provincial role as an approving agency. However, a number of briefs supporting this position felt that a modified function would be acceptable — i.e. that the Province should retain approval of official plans but not other municipal planning documents. Also the Province should confine its scrutiny of plans to stated provincial interests. This position appears to be endorsed throughout the responses and particularly in regard to proposals for official plans. Few reasons were cited by those favouring retention of the existing system. Comments from this group are as follows:

- We would approve of the limiting of provincial interference and power over local planning affairs, only if there is evidence that necessary counterbalance exists at the municipal level. At the moment this is not the case.

- Intervention by the Province or upper-tier municipalities in monitoring, guiding and assisting the local municipality is preferable to the present supervising and approving roles. However, in view of the provincial involvement in a number of programs which must be delivered at a local level, and in view of the range of provincial and upper-tier interests, supervising and approving will continue to be a major role for the Province, particularly where financial commitments in the forms of infrastructure and grants are critical to the implementation of a plan.

- Official plans should continue to be registered with the Province and be subject to its approval. The Province should also stipulate information to be provided by municipalities when submitting plans for approval.

- Plans should receive provincial approval but those without significance should come into effect automatically after a time period.

A few briefs questioned who should be responsible for the veto (4.7). One submission recommended that a single Ministry should coordinate all veto powers to avoid confusion; the power should not be divided, as proposed, between the Ministry of Housing and the Cabinet as a whole. Another suggested that the veto power should be held by the Minister having jurisdiction over that particular area rather than the Cabinet. A third pointed out that it was "unlikely" that the policy positions of the various ministries could be dealt with satisfactorily at the Cabinet level.

There was complete agreement with the proposal (4.8) that the provincial veto must be accompanied by stated reasons that fall clearly within the legislative scope of provincial interests.

Provincial Policies and Plan

A few briefs commented with some concern on the assumption in the Report (4.9) that a comprehensive provincial development plan is not an early prospect, but that in the absence of such clearcut policies, the Province must still exercise its responsibilities in ensuring provincial interests on a day-to-day basis. A brief from development organizations maintained that "the absence of comprehensive provincial policy statements providing the context within which future development should occur creates a long-term investment strategy vacuum which inevitably leads to inefficiencies in the industry".

Two suggestions were submitted in the light of provincial policy statements being unavailable:

- The Province should have the power to delay a decision on matters for which a policy needs to be formulated. Such delay should be implemented through a formal public decision by the Minister to postpone the day on which the municipal by-law is presumed (in the absence of a formal veto) to have been approved.

- An OMB hearing should be made a mandatory part of the planning process in cases where the provincial interest was not clear beforehand.

One municipality disagreed altogether that the Province should be permitted to submit new policy or change policy to veto a planning decision already approved by the municipality.

Provincial Guidance, Assistance and Incorporation of Provincial Concerns

There was unanimous agreement on the proposal (4.10) that if the Province is to shift from an approval to a veto role, it should strengthen its planning advisory services to municipalities. As expressed in one brief, "this proposal represents a positive, constructive orientation which will likely result in time and quality efficiencies". The major concern was that relevant guidelines and policies be clearly set out and widely circulated.

Of the few briefs that commented on the provisions (4.11) for inclusion of provincial interests in municipal plans, all were in agreement with the proposal.

Procedures for Provincial Assignment and Recall

Comments were mixed on the proposed basis for assignment of municipal planning authority (4.13, 4.14): that the Act require the Minister to assign planning authority to all municipalities, except where he believes that such assignment is inadvisable from a provincial standpoint. Concerns were focussed mainly on the absence of stated criteria for withholding assignment, the desire for appeal procedures for municipalities where assignment is withheld, and fear of further complication of the planning system as a result of differential assignment. Comments on the matter were as follows:

- It is difficult to imagine the Minister withholding powers from municipalities from a provincial standpoint. Would it not be more advisable to state in a very straightforward fashion those criteria that must be met prior to the delegation of planning authority. By adopting such an approach the Minister would avoid pressures from municipalities that did not possess the capabilities of administering planning

programs. At the same time, however, the Minister would be able to delegate to those municipalities who showed an honest interest and administrative capability for planning. Such a change would also discourage municipalities who wanted the authority for decision-making but were not prepared to properly fund their planning operations.

- Ministerial discretion as to a municipality's planning "capability" would potentially preclude a significant amount of decentralization to municipalities (particularly in rural and northern areas) on the basis that giving autonomous planning authority to certain municipalities would be inadvisable from a provincial standpoint. It would also result in a more complex overall planning system in Ontario due to the differences in the planning procedures between municipalities with autonomous authority and those still subject to provincial approval, particularly in terms of inter-municipal coordination.

- Due to wide diversity in staff and resources, various techniques for delegation will have to be devised and in some cases delegation will even be impossible. The onus must be on the municipality to ask for delegation based on criteria associated with adopted formal and legal policies, processing procedures, staff quality, financial base and responsibility.

- The delegation of true responsibility for planning must also contain within it the delegation of physical responsibility for implementation. Without these two aspects closely coordinated, the delegation of planning responsibility alone will have very little positive effect.

- In approving planning areas and the delegation of planning authority, the likelihood of "good planning" being carried out should be a prime consideration.

Rural Zoning

Although there was widespread recognition of the need for protection of rural land, there was little consensus on the proposal (4.18) that the Minister should impose, universally, a "base level" rural by-law providing minimum rural zoning standards. Over half of the submissions concurred with the recommendation. Those opposed feared that local circumstances would not be adequately recognized or would be too diverse to permit a suitable by-law, or that the proposal would represent a new standard of "good planning" in contradiction of the Report. The following points were made by those who disagreed with the proposal:

- A base level zoning by-law imposed by the Province is not likely to work as it would not be administered by the Province; any zoning that is not initiated by the municipality is not likely to be enforced.

- The proposal conflicts with other Report statements on local autonomy and should not be imposed on municipalities.

- The preparation of such a by-law appears inconsistent with the recommendation that "good planning" is a matter of local norms and standards. It would be acceptable only if developed strictly in accordance with the provincial interest.

- We recognize the need for policies and regulations governing rural land but circumstances vary so greatly, it would be extremely difficult to develop a standard zoning by-law; we are concerned that base level rural zoning and consent policies would have a tendency to become the norm rather than the base.

- Municipalities should have some decision on rural zoning and consent policies since individual circumstances would require specific policies.

- The by-law would be so general that it would be without real meaning as it could not take into consideration the specific needs and features of individual municipalities.

- The proposed ministerial exemption powers could lead to endless hearings of exemption applications. Already this is evidenced by the number of exemptions currently applied for under the Environmental Assessment Act.

Despite these concerns, there was equally strong support for the proposal. Some briefs offered alternative suggestions:

- We agree that policies such as those on rural land are important and if research is carried out by the Province and ideas suggested, and if each policy plan must have policies on these matters, then the Province can intervene at the input stage. By considering each area of the Province separately then various minimum and maximum rural land policies leading to severance and zoning controls can be recommended and if necessary inserted.

- The Province and the regions should set the rural and agricultural use guidelines.

- The Province should work within the municipal structure rather than establishing separate zoning by-laws.

- There should be a uniform provincial policy for the preservation of agricultural lands. Rural areas in close proximity to large urban centres have different characteristics from those further away from such centres, and the policy should have regard for these differences.

- Rural zoning should only be imposed after provincial guidelines on rural land use are established, and in consultation with local municipalities, particularly if local councils are to be responsible for administering and amending such by-laws.

- The zoning should only be applied where a need has been demonstrated.

Rural Consents

About 80 per cent of the briefs commenting on the proposal (4.20) for a provincial "base level" rural consent policy endorsed it. One submission suggested that there would probably be considerable difficulty in establishing such a base level policy within the rural parts of Ontario. Among those supporting the policy was the Provincial Association of Committees of Adjustment and Land Division Committees. Comments on the proposal included the following:

- It is suggested that there be a provincial definition of "guidelines".

- "Rural" land should be defined.

- The Ministry should have veto power over consents and should exercise it regularly in regard to consents which violate a set of provincial "base level" consent policies. The provincial veto could be appealed to the OMB.

Ministerial Discretion

There was unanimous agreement with the proposal (4.23, 4.24) recommending that ministerial discretion be exercised through regulations or other statutory orders and that stated reasons accompany ministerial decisions. Comments on this issue were as follows:

- Care should be taken to ensure that the public is aware of the regulations in effect at any given time.

- Any person should have the privilege of appealing the Minister's actions to the Cabinet. This suggests that any discretionary authority exercised by the Minister should be approved by Cabinet after a certain appeal period.

- We concur with the proposal and assume that any discretionary authority will operate only on the basis of formally defined provincial interests.

- This proposal would permit the evolution of a direct influence by the Province in guiding planning decisions.

Crown Rights

There was unanimous support for the proposal (4.27) that any provincial facility that is not location-specific should fall under the jurisdiction of municipal planning control. Disagreement was expressed with the provision (4.26) to exempt other location-specific provincial facilities from local controls. Comments on this latter issue were as follows:

- Few facilities are truly location-specific; a number of alternate locations would be possible in most cases and we suggest the Province deal with a municipality on this basis. We recommend that those facilities which are in fact location-specific respect municipal planning guidelines ... so as to minimize any detrimental effect on the municipality or part thereof.

- Even if the facilities are location-specific, the municipality (not the Province) should make the final decision on whether and how much facilities should be included in the municipal planning statement.

- All provincial facilities should be subject to municipal planning control and should not be treated differently from private facilities.

- Provincial facilities should not be exempt from local zoning provisions. Uses may be exempt but they should conform to site regulations of the area.

- There should be an appeal mechanism to safeguard a municipality from having a facility shoved down its throat.

- The requirement for municipal consultation "prior to their establishment" is tenuous. The recommendation should read: "The Province would be required to consult the municipality concerned during preliminary planning studies for the project, ..."

- The Committee's position that the Province should engage in suitable consultation with the municipality prior to establishing location-specific facilities sounds fine in principle but the actual amount of consultation based on prior experience may be rather minimal.

2 MUNICIPAL PLANNING AUTHORITY

In accordance with the principles established at the outset of the Report, the proposals in the chapters on municipal planning authority (Chapters 5 and 7) are designed to broaden the scope of municipal planning powers within a framework of local political accountability. In essence, the Report recommends that municipal councils should be assigned all residual planning authority and all such authority should be retained at the elected level; councils' ability to delegate responsibilities to non-elected committees should be strictly defined.

Analysis of the responses indicates considerable support for many of the proposals in this regard, although there is less agreement with the provisions to restrain councils from delegating responsibilities. The proposals to assign residual planning authority to the local level, to vest such authority in municipal councils, abolish the defined "planning area" and retain the option of planning boards were generally endorsed. Disagreement was expressed with the provisions to abolish joint planning boards (see Chapter 7) and to permit councils to grant consents directly or alter a committee decision (land division or adjustment) on a consent. There was in fact strong consensus to retain the existing consent committee and planning board system, even though neither local nor joint planning boards would have any statutory authority. The administrative burden and fears about the decision-making competency of municipal councils were frequently cited as reasons for this position. An overall concern about the proposals as a whole was the adequacy of the checks and balances built into the system, presumably to counteract the threat of political abuse.

Assignment of Local Planning Authority

In addition to the proposed reform of the Ontario Municipal Board, the proposal (4.12, 5.1) to assign residual planning authority to

the local level was regarded by many as the most significant issue in the entire Report. Widely discussed in a number of briefs, over half of the submissions endorsed the proposal; another third indicated qualified agreement and the remainder, that included the legal profession and several conservation authorities, totally opposed the recommendation. Support for the proposal came primarily from regional and local municipalities as well as from some social planning councils. Small municipalities were generally not in favour.

In principle, the proposal to assign greater planning powers to the local level is intrinsically related to the recommended changes in the provincial role as an approving agency. It could therefore be assumed that the responses to both proposals would be similar. However, there was far more support for increased local planning autonomy than there was for changing the provincial approval system to a veto. In fact, a number of briefs that endorsed increased local planning powers also recommended retention of the existing provincial approval function, particularly for municipal plans. This apparent discrepancy was not seen as an inconsistency in any of the briefs. In part the difference in the two responses could stem from concerns about the nature of the veto as not being the most acceptable means of intervention in local planning decisions. Underlying the position, however, is a theme that recurs throughout the responses: on the one hand, a desire for increased local planning powers and on the other, a fear of the implications of final responsibility.

The opinions of those who endorsed the proposal to assign residual planning authority to the local level are indicated below. In many cases, agreement with the proposal is based on the expectation that strong policy, information and advisory services will be provided by the Province.

- A basic philosophy of delegation of provincial powers to the municipality subject to clear municipal policy statements and clearly set out provincial policy statements is applauded. However, this delegation should not be subject to call back on approvals by use of the veto.

- We agree with this principle since it would allow a more democratic system with direct accountability for decisions made. Appropriate financial, administrative and support services must be available for these recommendations to work.

- We strongly agree, but are concerned about circumstances under which the Minister would consider it inadvisable to extend planning approval power. This should be further elaborated.

- The delegation of authority to the municipal councils is welcomed and this should result in a reduction of the time involved in the planning process.

The reservations of those who gave qualified support for the proposal centred on doubts about the capability of all municipalities to exercise planning powers responsibly. This view was expressed by interest groups and municipalities alike. Three major areas of concern were identified in the briefs:

1. Assignment to the most appropriate level

   Although a few area municipalities recommended assignment directly to the local level, several briefs questioned the ability of lower-tier municipalities to carry out the authority. The regional/county level was generally considered to be the most appropriate level for assignment.

2. Inadequate local resources

   The most frequently mentioned concern, particularly in smaller rural and urban municipalities, was that assignment of planning authority might prove too cumbersome in terms of increased administrative and financial costs, time, etc. (unless subsidized through increased provincial funding). Lack of access to professional staff was considered an adequate reason for withholding the proposed authority.

3. Phasing of assignment

   A number of municipalities that held a conservative view about the proposed assignment recommended gradual phasing of the transfer; partial retention of provincial approval (i.e. over municipal plans); and selective assignment "by mutual agreement". In this light, continued support from the Province (particularly the Community Planning Advisory Branch) was strongly urged.

Those who were totally opposed to the proposal made the following points:

- Municipalities should not be assigned such a wide area of responsibility. If this were adopted, local planning boards would be susceptible to pressure groups and good planning would not necessarily result.

- Municipal politicians are elected on a very narrow base and therefore cannot make objective planning decisions in matters such as housing policy which are of province-wide importance.

- We support the Report's concern that the Province should be entitled to ensure that provincial rights and interests prevail, but we do not recommend that the Province abdicate its responsibilities over that field by way of absolute delegation or assignment... We are of the opinion that any assignment of residual rights now vested in the Province to municipalities is repugnant to the very foundation of the assignment of powers under the British North America Act.

- Although we feel accountability is a worthy objective in itself, when applied to the planning process in Ontario it raises the spectre of planning decisions being made on an ad hoc basis with undue emphasis on short-term palliatives wherever non-political checks and balances are lacking. A system of planning decision-making where the final authority rests with the local council only will respond firstly to the demands of the existing electorate, whereas the needs of future populations may have such a low political priority as to be severely neglected.

- We have strong objections to the concept of the Province assigning final authority over all planning instruments to all local municipalities. Once the concept is publicly stated, it will be most difficult to refuse individual cases. There are a great many cases where municipalities are not equipped to cope with the workload and the responsibilities.

Assignment of Planning Power to Municipal Councils

The Report makes two proposals regarding the assignment of planning authority to municipal councils. The first (7.9) is that the defined "planning area" should be abandoned and planning authority should be assigned directly to municipal councils. The second (5.2) is that municipal planning authority should rest in the first instance with the elected council which should have the power to delegate to council committees or, for limited purposes (consents and zoning variances), to appointed committees of adjustment or land division committees. There was virtually unanimous agreement with both proposals. No comments were made on the abolition of planning areas.

Disagreement with the second proposal in most instances stemmed from confusion over the recommendation regarding the rights of committees of council to make decisions. The Report did not intend that committees of council (i.e. comprised of elected representatives) should be restricted from making decisions; the restriction is placed on the scope of authority of appointed (non-elected) committees. Comments on this issue were mainly from municipalities.

Those in support of the proposal made the following points:

- Placing the onus and future accountability for municipal planning on council is supported.
- We agree with the principal of municipal planning authority resting with elected local officials, recognizing that regions and counties are also a level of local government.
- We have no objection to the delegation by council of responsibilities so long as such delegation is in accordance with the rule of law. Such delegation should be done by by-laws which define the scope of the delegated power.

Of the few who disagreed, three briefs assumed that the recommendations implied that only council as a whole could make a decision and would not have the time to fully appreciate the complexity of the various planning issues. Other issues of concern were the competence of local councils and the restriction on the authority of council to delegate. These views are represented in the following statements:

- This recommendation seems to turn over the powers of planning and zoning to politicians who, although they may be honest and public-spirited, have neither the expertise, the time nor the experience to use the tools constructively. Inevitably the planning process would degenerate and the work would tend to become more and more a piecemeal, ad hoc procedure directed to the accommodation of a present, and future, electorate.
- We strongly believe that a municipal council in planning, as in other matters, should have the right to delegate whatever aspect of its authority it chooses, to whomever it chooses, whenever it chooses, so long as it does so on the basis of clear guidelines which set out the grounds for that delegation.

Only one brief commented on the proposal (5.3) that appointed officials should not have the right to establish municipal policies but they can be delegated the right to execute them. The proposal was endorsed.

Planning Boards

A number of briefs discussed the role of planning boards in the municipal planning system. In essence, the Report proposed (5.4 to 5.6) that municipalities should have the option of appointing planning boards, but that boards should not possess any statutory authority; "the authority for planning decisions should rest solely with the municipal council, and should not be constrained by the actions of an appointed advisory body" (5.6). The majority of the briefs (over 80 per cent) supported the proposals. Specific comments were on the option of retaining planning boards; their statutory powers, their authority to hold hearings and the composition of planning boards. Most of the submissions came from municipalities, with few planning boards responding.

There was unanimous agreement that municipalities should retain the option of appointing planning boards. In some cases, it was expressed that planning boards should be mandatory. Comments on this point were:

- If authority is given to councils as is recommended, we would strongly suggest that it become mandatory that all municipalities have a planning board which would use their normal function of putting forward recommendations to council.

- Council representatives expressed concern that such a shift would result in general perusal of some items which now are carefully scrutinized by the Board. Council's workload is just too great at present and should not be increased by the addition of planning powers. The value of non-biased, appointed people would be lost under such a change.

- Planning boards are useful and should be required; they are less subject to pressure, have continuity and are more able to grasp complex planning proposals than a new council. They should remain advisory.

Of those supporting the retention of planning boards, only two briefs (both from planning boards) disagreed with the proposal that

boards should have no statutory authority. A third planning board rejected the proposal that councils be permitted to dissolve planning boards and take over the functions without the Minister's approval.

A few briefs disagreed with the part of the proposal that refused planning boards the right to hold public hearings. As expressed in one brief: "There can be no objection to giving councils the ultimate power of decision, but it would be unfortunate if planning boards did not have the authority to hold public hearings. If the board is to advise council, it should have the advantage of public input into the recommendations." This position is further reinforced in the comments on the recommended requirement that councils hold hearings on all planning proposals. (See Public Involvement.)

Although the Report recommends that the council should be free to establish the board's composition without ministerial review, some briefs specifically requested that non-elected persons be permitted to sit on a planning board.

Other general comments on the proposal were:

- If municipalities are given the power to appoint or not appoint planning boards, we fear that this allows greater political intervention than that which exists at present and the planning process may become stagnant.
- Where a planning board exists, it should be consulted during preparation or amendment of an official plan.
- We agree with the proposal except that elected members of school boards should be included on planning boards.
- We agree with the proposal provided that a council is required to state its reasons in not accepting recommendations from its planning board.

Committees of Adjustment: Zoning Variances

Few comments were received on the proposal (5.8) that all municipalities with zoning by-laws should be required to establish committees of adjustment to deal with minor adjustments to these by-laws. The majority of the briefs agreed with the proposal.

The two briefs that disagreed made the following comments:

- Land division committees and committees of adjustment should be disbanded. These functions could fit easily within the political-planning system as subdivision plans and zoning by-laws do at present.

- Committees of adjustment to deal with minor variances are not always necessary. In rural areas the zoning amendment procedure is as efficient as the committee of adjustment procedure.

Two further suggestions were that councils should be able to review minor variance applications as well as consents, and committee of adjustment functions as a whole might also be part of the duties of a planning board.

Consents

Recommendations in the Report regarding consents dealt with the authority to grant consents; council authority to change a committee decision; and urban and rural consents. The topics are discussed separately below.

a) Authority to grant consents

A number of briefs commented on the proposal (4.12) that municipal councils (regional and local) should be allowed to determine for themselves whether they wish to grant consents directly or whether they wish to delegate this function to a committee of adjustment or land division committee, as appropriate. The responses on this issue are difficult to interpret. In part this is because statements in the Summary Proposals were understood to imply a more arbitrary situation than was intended in the Report, i.e. that consent granting authority should rest only with the council. Thus comments tended to focus on whether municipalities should or should not grant consents and whether consent granting committees should be discontinued, rather than on whether the municipality should have the option of granting consents directly or delegating the authority to an appropriate committee. A larger number of briefs disagreed with the recommendations than agreed and felt that municipalities should not be permitted to

grant consents directly. The majority of the briefs not supporting the proposal came from committees of adjustment and land division committees. Those that agreed with the proposal were primarily from municipalities. The latter group did not state reasons for their support.

Those that disagreed made the following points:

- It is not practical to have municipal councils grant consents directly. Councils do not have the time to consider every consent application.
- Council would be less likely to render an objective assessment. Particularly in smaller communities the possession of consent and variance powers by councils would encourage the settling of old scores and the extortion of new demands.
- Discontinuance of the committees of adjustment and the land division committees would result in the removal of one of the few authorities remaining available to the "little man" where he can face his peers instead of a planning bureaucrat.
- If municipalities do not appoint a committee of adjustment or land division committee to approve consents, we are concerned that the municipality may not circulate applications for comment by conservation authorities.
- Leaving options open to municipal councils will create an irregular appeal procedure among the various municipalities; changes to the OMB must be determined before any decision is reached on this proposal.
- We do not agree that regional and local municipalities should be allowed to determine for themselves if they wish to continue with a land division committee; consents should remain in the non-political hands of appointed committees.

b) Municipal authority to change a committee decision

Although there was agreement with the proposal (5.14) that committees should adhere to their councils' consent policies (and regional land division committees take account of local policies), there was little support for the provisions (5.15) for a council to vary a consent decision, particularly without a public hearing. However, there appeared to be some confusion regarding the proposed mechanism for altering or appealing a committee consent. The intention of the Report was that a local municipality should be able to alter the decision of a committee of adjustment; a regional/county municipality should be able to alter the decision

of a land division committee, and a local municipality should be able to appeal to the OMB the decision of a regional land division committee, as the Act now permits. Some submissions assumed the Report was recommending that only regional municipalities could alter a committee decision, whereas local councils would have to appeal in all cases. The following comments are representative of the points raised against the proposal:

- To permit a council to overrule a committee decision without an additional hearing would be contrary to the spirit of the McRuer Report which was in essence adopted by the Province. Making decisions regarding property rights without affording adequate representation would be a denial of natural justice.

- The impartiality factor which remains as a strong reason for the creation of these committees would be seriously eroded if council is able to vary each and every decision.

- It doesn't seem consistent that a regional council can alter a committee decision, whereas a local council can only appeal to the OMB.

- We cannot agree that a council should have the power to vary decisions of a "consent committee". The planning system has been created with a series of checks and balances... Councils now have the privilege of objecting to the OMB if, in their opinion, the decision of the committee offends local planning policies and controls. The existing system has been successful and need not be altered in this regard.

- This proposal would make the consent process too long.

- Committees would be no more than pawns of council. Council should have the power to terminate the appointment of members if they don't measure up.

c) Urban and Rural Consents

The Report proposes (5.20) that urban subdivisions and consents should rest with local municipalities, and the authority to approve rural subdivisions and consents should rest with the counties or regional municipalities. Reactions to this proposal were mixed with those opposing being clearly in the majority. Reservations about the proposal centred on the difficulty of distinguishing between rural and urban, and whether the authority should be exercised only at the local or the regional level. As could be expected, regions and counties thought the authority for subdivisions and consents should rest entirely at the upper-tier

level, and local municipalities argued that it should be given to the local level. Other comments on this issue are as follows:

- There can be no justification for processing consent applications by two different bodies; they should all be considered by a single body in order to maintain a consistency in decisions. The so-called urban applications for infilling, rights-of-way, etc. will be handled expeditiously in automatic fashion and all new lot creations will be handled consistently regardless of location.

- A division of powers between local and regional governments to approve subdivisions and consents is contrary to the principle of local planning autonomy and would doubtless lead to confusion and administrative problems.

- Where rural areas are within municipal boundaries, it may be unworkable for a county council to approve subdivisions. In a two-tier regional system, limits of settlement areas should be defined and within these areas local councils should have approval authority. Outside of the settlement area, there should be no subdivisions unless it is agreed to alter settlement limits. Consents within such areas should be the responsibility of the area council with the regional council having the right to object.

- The Province should set criteria to aid county or regional councils in determining which municipalities are urban and which are rural.

- No rationale is presented to explain why an "urban" area should be any more competent than a "rural" area to exercise planning powers.

- The municipal approval for subdivisions and consents should include rural land proposed for urban expansion.

- It would be more logical to provide consent powers to municipalities with official plans.

- The approval of both urban and rural subdivisions and consents should be delegated to the lowest elected level with the resources and willingness to carry out the function.

3 JOINT PLANNING, COUNTY PLANNING

The proposals in this chapter (7) deal with various aspects of inter-municipal coordination. They represent an attempt to rationalize certain anomalies in existing legislation with regard to joint planning areas, and to recommend provisions for county planning in line with other proposals for local and two-tier planning. The proposals to permit the establishment of voluntary joint planning committees and standing inter-regional planning committees was endorsed. There was less consensus on the recommendations to eliminate joint planning boards and give county councils the direct responsibility for county planning activities.

Elimination of Joint Planning Boards

Of the briefs that responded to the proposal that joint planning boards be abolished (7.7), over 80 per cent were opposed and favoured retention of joint planning boards. (More than half of those were from joint planning boards.) Reasons given for disagreement with the proposal were:

- No justification is given for abolishing successful examples of joint planning by means of joint planning boards. Since the Committee recommended that municipal councils be permitted to retain the option of having a planning board, we can see no reason why the Act could not permit municipalities the option of retaining involvement in a joint planning area and a joint board.

- Joint planning areas should be retained especially where there is a record of great cooperation.

- The proposed dissolution of joint boards would tend to increase the competitiveness and subsequent polarization.

- It is firmly believed that joint planning is necessary and beneficial, particularly in situations where upper-tier planning capability or interest either does nor exist or is too remote.

Voluntary Joint Planning Committees

The bulk of the briefs that commented on the proposal (7.12) agreed that the Act should permit the establishment of voluntary joint planning committees with no statutory planning responsibilities. Those who disagreed with the proposal made the following points:

- A voluntary joint planning committee of municipal council representatives has disadvantages. Councils lack the time to study planning problems and do not have experience/knowledge to deal with some planning problems.
- Recommendations do not go far enough; direct and strong provincial intervention in intermunicipal planning is advocated.
- Amending the Act as proposed would not provide a satisfactory replacement for joint planning boards. Joint boards should be retained but the Act amended so that these boards recommend to the councils of the municipalities comprising the joint planning area.
- Joint planning committees with no formal area-wide planning authority are likely to be ineffective or redundant in light of the second-tier councils' coordinating role in planning matters.

County Planning

Comments were mixed on the proposal (7.13) that county councils should be given direct responsibility for county planning activities and the joint planning designation for county planning should be abandoned. Comments on the proposal were:

- Introduction of planning at the county level should be weighed against the possible loss of decision-making at the local level by local people who are aware of their own areas.
- It is unclear what the implications of this recommendation are for conservation authorities.
- Where a defined area interest is recognized by the county, the county should become the designated municipality, although a committee of directly affected local councils or a planning board may be charged with concern for that area interest.
- The county should be assigned responsibility for planning instruments once the Province is satisfied that appropriate provision for staff and budget has been made. The county should also have the power to delegate any or all of the above responsibilities to municipalities once arrangements for staff and budget have been made, subject to appeal to a county planning board.

Other proposals regarding county planning — that counties should not exercise zoning powers on county roads (7.14), and should be authorized to exercise subdivision approval powers and to determine which local municipalities should be delegated such powers (7.15) — were all accepted.

Three briefs commented on the Committee's suggestion (7.16) that the coordination of planning between the counties and the separated towns must be a provincial responsibility. Two submissions agreed and a third felt that the solution was unsatisfactory and hoped the White Paper would "advance more serious solutions".

Inter-regional Coordination

There was virtually unanimous agreement on the proposal (7.20) for the establishment of permanent, standing inter-regional planning committees with direct regional representation and, when necessary, local and provincial participation. Only one municipality (local) disagreed. There were, however, a few reservations about the proposal:

- Inter-regional planning committees are unlikely to be effective unless the Province takes a strong leadership role. Such committees should include municipal as well as regional representatives.
- More research is needed on a rational approach to overall planning in the Toronto region before formulation of a government position.
- While the proposal is supported, it should not take the form of the Toronto Regional Coordination Authority as proposed by the Robarts Commission.

Improvements

Three briefs commented on and agreed with the proposed improvements (7.21, 7.22) to the Act if designated planning areas and joint planning areas are retained. These proposals were that:

> 7.21
> Any municipality that wants to engage in planning should be designated as a planning area on request, without having to participate in a joint planning area. Membership in joint planning areas should be entirely voluntary. Joint planning

areas should include the whole of each participating municipality, with no municipality being part of more than one joint planning area. Overlapping planning areas that now exist should either be restructured on the new basis or eliminated. Councils should be allowed to establish joint planning committees, consisting of council representatives, in place of joint planning boards if they wish. Members of joint planning boards should be appointed by their respective councils, rather than by the council of the designated municipality, as the Act now provides.

7.22

Finally, the status of the designated and the subsidiary municipalities should be clarified. The present arrangement by which the joint official plan can be adopted by either the designated municipality or by one of the subsidiary municipalities should be changed. Each council should be empowered to adopt that portion of the joint plan which applies to its territory, and the designated municipality should be empowered in addition to adopt any policies or provisions that are of an area-wide character, extending beyond individual municipal boundaries. This should require, however, a recommendation by a two/thirds majority of the municipal councils constituting the joint planning area, say, or by councils representing two/thirds of the total population of the area.

4 TWO TIER PLANNING

The provisions of the chapter on two-tier planning (8) are in accord with other proposals in the Report regarding defined upper-tier interests, basis of intervention into local planning decisions and requirements for plans. A number of briefs fully endorsed the recommendations of the chapter as a whole. Agreement was expressed with the proposals to define regional interests; require formally adopted policies as a basis for regional objection to municipal planning proposals; provide for amendments of local plans; and to prohibit regional zoning and development review powers. Disagreement was indicated with the proposed subdivision and consent approval powers, and with the absence of legal conformity requirements for local plans. There was no consensus on the question of regionally established development standards and specifications.

General comments on the chapter were:

- Nothing is said about the first phase of planning new suburban growth and the later phase when the residents of the community can manage their own planning affairs. In the first place, there is good reason for the regional level to have the dominant role in setting out the infrastructure of new urban development, with plans that must be conceived on quite a large scale. Later on, settled communities on quite a small scale can assume planning responsibilities for their own renewal, infilling, adaptation, etc.

- The more flexible approach suggested in Sections 7 and 8 re planning areas and two-tier planning is welcome, but there is concern about the status of these planning policies and the degree of certainty they represent. There is a need for a general framework dealing with basic planning issues such as population and employment. Within this framework, which might have some "official" status, the other policy statements could be formulated, perhaps <u>without</u> official status.

- Before the proposals can be used to frame legislation, some clarification is required. The main question is, in a reformed planning system characterized by a dual emphasis on local autonomy and on limited but focussed provincial intervention, is the region to function as another level of municipal government or as a sub-province?

Formal definition of Scope of Regional Planning

There was little disagreement with the proposal (8.15) that the scope of regional planning should be defined in The Planning Act so as to establish a clear basis for its planning activities and intervention into local planning, and furthermore, that any variations in the distribution of planning authority be provided for in the individual regional acts. Of the two briefs that disagreed, one felt that regional and area municipalities should be able to negotiate among themselves what powers each level should exercise, and the other stated that:

> The suggestion that upper-tier planning responsibilities be defined in the Act is questionable in that in any restructured government, individual legislation can be adopted which could incorporate the responsibilities of the various tiers.

A further suggestion was that existing regional acts incorporate the Report proposals for two-tier planning before any deviations are permitted to occur.

Regional Interests

There was general endorsement from both regional and local municipalities of the suggested scope of regional interests (8.16, 8.17). Of the few briefs that disagreed, the following comments were submitted:

- Regional or upper-tier governments maintain a higher level of technical expertise. The regional interest covers many items of local importance in two abutting local municipalities. It is also important to note that the natural resource base is a provincial as well as regional concern.
- The regions should have powers only to provide services which they can do more efficiently than individual municipalities.

- We agree with the Committee's conclusions, except that the region should not be responsible for the rate of growth of a local municipality. A region should not be permitted to promote industrial growth in one municipality and discourage it in another, especially if the urban boundaries would permit such development and its associated population growth to occur.

A number of other suggestions were made as follows about regional planning interests:

- The regional planning concern with the development pattern or structure arises from its social responsibilities.

- The regional plan should have the responsibility for developing a master plan for "hard services" within the financial capability of the region.

- Provision should be made for the conservation authority resource management objectives to be reflected in planning policies related to the natural resource responsibilities of the regional municipality in order to achieve a consistent approach at the local level.

- The regional or county plan should establish policies for such matters as environmental protection; conservation and allocation of natural resources including land, water supply, pollution control, land drainage, transportation services and facilities, housing, social services and finances.

- The authors of the Report have naively anticipated a regional approach from the regional governments that have been formed. In many cases the regional outlook is the sum of the parochial parts from each constituent municipality. While the makeup of regional council stays the same, it is unrealistic to expect proper exercising of the authorities given to regional councils in the planning process.

Matters Outside the Scope of Regional Interests

A majority of briefs from both regional and local municipalities agreed with the items described (good planning, resolution of disputes) as being beyond the scope of regional planning authority (8.19). Those that disagreed were primarily concerned that regional municipalities have a legitimate interest in "good planning" at the local level. Other comments on this proposal were:

- The Report appears to be ambiguous and/or contradictory on the municipal-regional division of powers. It states that "whether local municipalities engage in 'good planning' should be placed outside the scope of regional planning responsibility" but also, (p. XII) that "municipalities should also be constrained from employing planning or development practices that impair the achievement of provincial or regional housing goals". It appears difficult to see how these two principles can be simultaneously maintained. The Report appears to argue in favour of a strong municipal role, but if one takes seriously what is said about provincial and regional goals being monitored, the real municipal role is considerably more limited than originally suggested by the Report.

- The distinction between regional and provincial interests should be defined in much clearer terms.

Regional Intervention into Local Planning

Several briefs commented on the proposals that regional intervention into local planning should be limited to matters of direct regional planning concern, and should take the form of an objection within 30 days, based on a formally established planning policy. About two/thirds (all local municipalities) were in agreement with the proposals. Three upper-tier municipalities objected and recommended that the second-tier be given approval powers. Several others had comments on the recommendations, as follows:

- In order to avoid any legal hiatus, local planning decisions should take effect immediately upon their passage by the local council and should remain in effect until held invalid.

- To obtain consistency of regional council action when objecting to local municipalities, it may be necessary to change the method of election of regional councillors from indirect to election-at-large.

- Where there is a regional municipality, it should advise the Province whether local official plans are satisfactory in such matters as are of regional concern; and local councils should advise the Province if they have any objections to regional official plans.

- The planning system is better strengthened in terms of settling disputes if the OMB retains its existing powers.

- Reliance on regional objections which would have to be confined to conflicts within stated regional planning concerns is not likely to be at all satisfactory or adequate to the need.

Legal Conformity

Only four briefs dealt with the question of legal conformity of local plans to regional plans, and three disagreed with the proposal to substitute "have regard" for the conformity requirement (8.30). As expressed in one brief: "In order to realize the Committee's principle that the ultimate legislation and planning system should be 'rational, reliable, predictable and economic in time and cost', a legal force is mandatory".

Subdivision and Consent Approval

Surprisingly few briefs discussed the proposal (8.37) that in two-tier municipalities the authority to approve subdivision plans and grant consents be assigned in the first instance to the regional/county council which may reassign the authority to such local councils as it determines by amendment to its particular act. The general issue was discussed more frequently in regard to municipal authority and the two-tier division of responsibility for urban and rural consents (Chapter 5). Six briefs out of fifteen agreed that subdivision and consent approval should remain, as is now delegated, with the regional council, and of those, three were second-tier municipalities. Points raised by those who disagreed were as follows:

- The general principle of local autonomy should apply to local municipalities in regional structures. Assigning subdivision approval to the regions first is in direct conflict with the Committee's views on regional intervention in local planning.

- This policy would be appropriate if the rural subdivision plans were first presented to the local council for their review and comment. Their comments would then hopefully be taken into regard by the regional municipality.

- It is likely that interests would be represented by block votes based on the premise that backs would be mutually scratched. A two-tier system is a delicate instrument controlled by checks and balances. Discretion of the type suggested could well destroy such checks and balances.

Zoning and Development Review

There was general support from both second-tier and local municipalities for the proposals (8.40, 8.42) that regional/county municipalities should not as a rule have zoning and development review powers. Disagreement was expressed over the recommendation to permit regions to be a direct party to all forms of development agreements and to remove regional zoning powers along regional roads. Comments on these matters were as follows:

- Any regional participation in agreements should only be permitted where there is an established regional interest and then only after the Act has set guidelines for such participation.
- Regional municipalities should continue to exercise the powers under Section 35 with respect to building setbacks to accommodate road improvements and utility requirements until such time as local municipalities have adopted by-laws consistent with regional objectives in this regard.

Regional Development Standards

The proposal (8.44, 14.11) that regional and county councils should have the power to set maximum area-wide development standards and zoning specifications was described in two chapters of the Report (8 and 14). Close to 60 per cent of the submissions endorsed the proposal, including most regions and counties. The views of several lower-tier municipalities were mixed. Those opposed made the following points:

- We question the need for the county in all instances to establish uniform or maximum development standards.
- We believe that regional councils should have the power to "recommend" not "set" maximum and minimum standards for area-wide development.
- The final authority of municipalities over their own planning instruments is seen as conflicting with regional/county councils power to set area-wide development standards.
- The proposal is a major concern in that area-wide development policies would be used by regional/county councils to control growth rates of municipalities.

Mandatory Regional Plans

Only three submissions discussed the proposal (8.58) that regional plans should not be mandatory. Two agreed and one felt the proposal was superfluous in that if planning statements are mandatory for any municipal planning action, a plan would obviously be required for a region to undertake planning activity.

Regional Amendments to Local Plans

Eighty per cent of the briefs that commented agreed that regions should have the power to request amendments to local plans and zoning by-laws concerning matters of direct regional concern (8.59). Of those who endorsed the proposal, one brief pointed out that the regional request should be based on a formally adopted policy available in advance. Another two briefs suggested that this issue should be expressed as a matter of right rather than of "power".

5 MUNICIPAL PLANS

The aim of the proposals for municipal plans is to change the nature of a plan from a fixed and somewhat uniform document, formally approved, to a more flexible document, tailored to the needs of diverse communities and their particular planning activities. A council review process is recommended to ensure plans remain relevant.

Widely commented on in a number of briefs, the proposals in this chapter drew strong reaction. There was considerable support for the recommendations that planning not be mandatory; that all planning activities require a formal planning statement as a basis for statutory authority; that municipalities be permitted the option of individual planning statements; and that the content and scope of plans not be prescribed in the Act. Disagreement was expressed with relinquishing provincial approval, changing the legal status of plans and with the proposed review of planning policies once in the lifetime of each council. Views were mixed on the requirement to "have regard for" the social, economic and environmental consequences in plans. In effect, the planning approach that is endorsed in the submissions would be more adapted to particular planning circumstances in terms of plan documents, but would not differ significantly from the existing system with regard to provincial approval, the legal status of plans and periodic review by council.

The most frequently mentioned concerns about the proposals as a whole are that the reforms will lead to capricious, arbitrary behaviour by municipal councils; unpredictability and confusion within the planning system; and an uncoordinated, fragmented approach to planning. Conversely, there is an underlying assumption that retaining the provincial approval system and the legal status of plans and restricting the opportunities for councils to change their policies will provide continuity, coordination and consistency within the system. It is apparent from these reservations that if the type

of document is to be changed and made more flexible, strong safeguards must be built into the system to ensure reliable results. As expressed in one brief:

> We recognize and approve of the apparent intention in the proposed system to avoid the inflexibility of the present official plan arrangements and to provide municipalities with the means to fit their plans to local needs. We are concerned that the proposed system would be over-balanced toward the desire for flexibility and would sacrifice some needed consistency in Ontario's planning. The proposed system rejects prescribed plan content at the same time as it would drop official plan status, delete Section 19 "conformity" provisions and provide for a review once in each council's life. Plan content could be changed with much greater ease (with the change to veto instead of an approval system this tendency would also be reinforced). We recognize that rigidity was one of the drawbacks to the system, but feel that the potential reliability of planning in the Province is one of its strengths.

Other general comments on the chapter, primarily from interest groups (planning and development), are as follows:

- We think it is essential to reconsider Chapter 6. While the objectives of the section are generally supportable, the municipal plans could have the gravest consequences on the various sectors affected by them; most of all the municipal jurisdictions who are to be served by these documents... We suggest that the concept be reviewed towards correcting the "interface problem".

- Municipalities should be required to print municipal plans in plain English.

- This section is endorsed in its entirety, but the following concern is noted:

  The approval process involved in determining the adequacy of municipal planning statements could become just as time-consuming and process-oriented as that which presently exists for approving official plans unless specific measures are undertaken to assure the efficiency and accountability of this assigning of planning authority. Also, the question of whether a municipal plan infringes on matters of provincial or regional control will presumably have to be checked every time the council wants to review and revise the plan.

- Rather than the Report proposals, a system is required that would set out clear plan concepts and policies to be followed in municipal actions. Reasonable standardization could be achieved under The Planning Act, while providing for a varying degree of complexity and detail appropriate to the situation in the particular municipality. The technique of drafting plans and presenting them to the public could be

worked out to achieve clarity while still providing a basis for guiding municipal action. Procedures for preparing, adopting and modifying plans could be improved so that they could more adequately reflect the emerging needs of the community.

- We feel that every municipality should be required to have a plan, containing statutory requirements to achieve the objectives of the plan, and including time constraints so that planning matters are dealt with promptly, and comprehensive enough not to require constant review and updating. In any event, plan reviews should not be considered an acceptable reason for delaying planning decisions on matters already dealt with in existing plans.

- The Minister should ensure that if the Committee's recommendations respecting municipal autonomy over planning decisions are adopted, existing official plans are not immediately scrapped or drastically altered by municipalities.

Mandatory Planning

The recommendation on mandatory planning (6.2) is that planning itself should not be mandatory, but municipalities should not be allowed to exercise any planning authority without a formally adopted planning policy that establishes the basis for that particular activity (6.8, 6.9). The majority of the briefs that commented endorsed the proposal.

There was no quarrel with the latter part of the proposal, i.e. that no statutory authority be permitted unless the municipality has a formalized planning statement relating to the activity. The disagreement was over the issue of mandatory planning. In part this stemmed from some confusion about the proposal; some municipalities and interest groups did not take the recommendation to imply that some form of a plan would be mandatory if any planning activity were to be undertaken. Other concerns regarding the proposal were expressed as follows:

- The difficulty we foresee is that there is no definition of how a municipality is to adopt a planning policy statement or what is to keep a municipality from changing its planning policies with each application.

- The Province should resolve the problem created if municipalities decide not to plan and not to prepare the necessary "planning statements", and the basis on which they would judge whether or not the municipality was sufficiently competent to assume the planning function.

- In our area, planning is new and just beginning to get a foothold. To reject the planning process at this point would undo all the progress which has been accomplished and would result in an "anything goes" situation.

- If this recommendation were adopted, the result would most certainly be to remove the decision-making process still further from the people.

Planning Statements

One of the more controversial issues in the Report is the recommended change in the concept of a traditional plan document. The Report proposes (6.5, 6.8) that muncipalities should be authorized to have the choice of adopting a total comprehensive plan in a conventional sense, or individual planning policy statements relating to their specific planning activities. The Act should be revised specifically to recognize "municipal planning statements". Over 70 per cent of the briefs mentioning the issue endorsed the recommendation. Although few gave reasons for their support, the following points are representative of their views.

- We agree with this proposal since planning statements could be more flexible and comprehensible to citizens. They also would reflect local needs more adequately. Official plans are too cumbersome to be an effective tool.

- We support the concept that "municipal plans" should replace "official plans" as official plans are a "road block", and are also difficult and cumbersome to change. Usually official plans speak out "only in generalities" and slow the planning process. Many plans are "like a fiddle that anyone can play a tune on" and not oriented to the particular concerns and problems of individual municipalities.

- A system based on municipal plans and/or planning statements appears to offer municipalities improved opportunities to formulate development objectives and implement and monitor programs aimed at achieving stated and agreed goals.

The concerns of those who disagreed focussed on assumptions about the implications of planning by a series of planning statements. The proposal, it was feared, would lead to arbitrary, ad hoc

decision-making by council and uncertainty and lack of coordination within the planning system. To some extent, misgivings about the proposal stem from confusion in the Report about the intended nature of the planning statements. A piecemeal, fragmented approach to planning was not intended. The Report states (6.4) that "a municipality's plan should provide a framework for its planning and development program", but questions that "a comprehensive framework is the only basis on which a municipality can or should plan". For many municipalities, the proposed requirements for formal policy statements on all planning activities and the criteria to be satisfied in the planning statements would, in themselves, result in comprehensive plans. However, the Report is not explicit on this issue and the matter should be further clarified.

Regarding capricious or arbitrary behaviour by council, appeal provisions to the OMB are specifically recommended as a safeguard against such behaviour. For deviations in policy, the Report specifies that a public statement by council is required, in accordance with regulations established by the Minister (6.35); an amendment involves the same process requirements as the original planning policy (8.27). Nevertheless, the concerns indicate a theme expressed throughout the responses which reflects a basic mistrust of local government to execute planning authority in a responsible manner.

Those who indicated reservations about the proposal made the following points:

- The preparation of individual policy statements will only be a reaction to problems as opposed to action preceding proposals. Planning would be reduced to afterthought instead of forethought and anticipation of future growth. In time, planning statements would become too numerous, varied and uncoordinated to properly enforce. The adoption of municipal plans, not just a mass of planning statements, should be a basis for exercising autonomous planning power by a municipality.

- We are concerned about the possibility of abuse of a jurisdiction that enables legislative instruments, such as a municipal plan document, to be freely modified by statements of policy in the absence of clear procedural requirements that

would protect rights affected thereby. We recommend that policy changes at the municipal level have procedural requirements defined in the legislation.

- The proposal to plan incrementally by a series of disjointed policy statements is particularly disturbing. It is this very attitude of institutionalized ad hocery which has brought discredit to provincial planning.

- The development industry in Ontario would be thrown into complete chaos if the official plan requirement was replaced with a municipal plan or planning statements that do not have legal status. Many dollars are invested in long-range developments, and if these investments did not carry the security of an official plan designation, required financing would be non-existent. Municipal plans or municipal planning statements that have no legal status and, accordingly, are subject to change at the whim of any local politician, are not an adequate base upon which to develop a community in a meaningful way.

- The official plan process should not be abolished. Without the official plan document and the controls accompanying the process which must be followed to amend it, municipal policies could change at the whim of any particular council in power. Pressure groups could possibly cause a complete reversal to the direction of a planned municipal development. It would not be necessary for council to appeal to another authority to change their policies and guidelines so they could change drastically after each municipal election.

- We cannot support the recommendation as to structural modifications for the processing of official plans as is envisaged by "formally adopted municipal policy statements". We are of the opinion that the processing and hearing requirements, and the multitude of appeal levels, restricted as they may be, as recommended by the Committee are for all practical purposes unworkable.

- Replacing official plans with easily changeable municipal planning statements will seriously undermine the security of open space areas. This will be a particularly grave problem in urbanized areas where development pressures on natural areas are already intense.

Those who stated that plans should only be comprehensive and that individual planning statements should not be accepted expressed their views as follows:

- Permitting municipalities to adopt a series of planning policy statements instead of comprehensive official plans could result in fractionation and confusion. It would be difficult to determine, let alone comprehend what the municipality's plans were unless all policies were fitted within a

comprehensive framework. There would likely be uncertainty even about what were or were not planning policy statements. There would not be an adequate planning framework for determination of public commitments or managing capital expenditures.

- The plan should be comprehensive enough not to require constant review and updating.

- There should first be overall comprehensive policies within which individual development control policies are stated, after which specific planning authority could be delegated.

- If a municipality decides to plan it should do so comprehensively; this proposal will only serve to fragment the planning function and produce a piecemeal approach to municipal planning.

- Municipalities should have official plans that are comprehensive and contain a time horizon greater than a two or three year political term.

- Some formal plan should be required which provides a comprehensive set of policies and has sufficient legal status to control and require consistency in zoning, subdivision control and other municipal regulations or actions.

Provincial Approval

In accordance with the views expressed earlier against changing the provincial function to a veto, the majority of those who commented on the proposal (6.6, 6.7) disagreed that plans should not require provincial approval. This group, which included some small municipalities and legal, development and community interest groups, felt that provincial approval of plans should be retained. The position appears to be based on the assumption that provincial approval prevents uncertainty and discontinuity within the system. Views expressed on this matter were:

- Without the safeguard of the approval process, the quality, consistency and validity of official plans would be in jeopardy.

- If municipal plans do not require provincial approval and cease to have legal status, councils will be able to change their plans at whim which would result in an increase of arbitrary decisions. Moreover, a plan which can be too easily changed, cannot be a continuing policy guide for councils, committees of adjustment or developers.

- The proposed elimination of provincial approval procedures would do away with the prime instrument of inter-municipal coordination.

Two briefs commented on the proposed change in terminology from "official plan" to "municipal plan". One disagreed and the other thought the issue was purely one of semantics.

Scope and Content of Plans

Of the briefs that commented on the proposals (6.14, 6.17), most agreed that there should be no mandatory prescribed content for municipal plans, but all municipal plans and planning statements should be required to establish the particular objectives being sought, the means to be used for achieving these objectives and the procedures for periodic review and for public information and consultation. Those who disagreed felt the Province should stipulate plan contents. One comment was that "allowing each municipality to determine the range and nature of contents of its plan and policy statements, subject to specifying a few very broad considerations, invites great complexity. Furthermore this virtually eliminates the possibility of relating the plans of adjoining municipalities or making ready comparisons from one municipality to another".

Suggestions on the issue were:

- Municipalities should spell out in their official plans the specific objectives they intend to achieve through development review in each area to which it is applied, and the review be legally limited to the achievement of these objectives.

  The Planning Act should provide for development review objectives to be set out in schedules to official plans and these be registered with the Province but not be subject to provincial approval except as to the legality of the contents.

- Consideration should be given to statutory recognition of a hierarchical system of plans consisting of provincial plans, municipal policy plans (broad), and municipal secondary plans (area specific), as outlined in "Subject to Approval".*

* Ontario Economic Council "Subject to Approval" (Toronto: 1973)

Social, Economic and Environmental Considerations

The response to the proposals (6.20, 6.24 and 6.28) that municipal councils should be required to have regard for social, economic and natural environment concerns in their plans and planning statements, and to take account of the likely social, economic and environmental consequences of their proposed planning actions, was split. Briefs supporting the proposal were primarily from municipalities; those opposed were mainly from conservation authorities and social planning councils. The general concern was that the wording of the proposal was too vague or weak. As expressed in one brief: "The comments and recommendations of the Committee may discourage municipalities from continuing to address social concerns and may destroy the initiative for new directions in social planning". Others had the following comments:

- It is impossible to predict what might go wrong with proposed social or economic strategies. The planning policies must be subject to continual review and the municipal strategy must be flexible enough to be adaptable to a changing situation.

- Municipalities should have planning statements incorporating landscape architectural principles as a basic tool to evaluate the individual landscapes and the developments and planning affecting them.

- It is true that many local official plans contain no more than "motherhood" statements concerning social, economic and environmental planning ... however there is a clear need to integrate social planning at the local level with the traditional planning activities of local governments.

Legal Status of Plans

Contrary to the proposal (6.34) that the present Section 19 "legal status" provision be deleted from the Act and instead, municipalities be required to have regard for their formally adopted planning policies, a clear majority (over 80 per cent) of briefs felt that the Section 19 provisions should be retained. Many argued that removal of Section 19 and the suggested replacement, "have regard for", would result in confusion and unreliability within the planning system. The views of those who opposed the recommendation are summarized as follows:

- In recommending abolition of the legal status of official plans, the Report moves away from utilizing a constitutional device that can protect citizens against arbitrary legislative action and that can also be used to enhance local autonomy by reducing the need for provincial review to ensure such protection.

- We believe that once municipalities have adopted their municipal plans and planning statements, their actions should be in conformity with those plans and policies.

- To remove the legal status of the policy document means that individual decisions affecting the future of a municipality may be made on too much of an ad hoc basis. Whatever certainty and consistency there is within the system would be eliminated.

- Rather than reducing the enforcement of planning, new tools should be fashioned to tie all municipal actions to the rational course they set themselves. Surely more false expectations would be created by documents which need not be implemented than by plans which are compulsory.

Other comments on the proposal included the following:

- The arguments used by the Review Committee to suggest that the legal status for official plans be deleted are, in many areas, debatable. If councils are able to have the added flexibility in preparing their municipal plans and have the final authority over the various planning instruments, etc., we suggest that without the present legal status for an official plan there is the very distinct possibility for the abuse of the planning system. There is also a very real possibility that the planning system in Ontario will become very erratic and offer little protection for the public at large or council.

- The Ministry should prepare and circulate a study clarifying the legal implications of removing the conformity requirement from The Planning Act and substituting "having due regard for".

- Care should be taken to ensure that, in the drafting of new legislation, the significant change in the legal status of municipal plans does not result in an increase in attacks on the validity of municipal by-laws in the courts on either procedural or substantive grounds.

Departure from Adopted Policy

Only three briefs specifically commented on the proposal (6.35) that the Act should require that when a council chooses to deviate in some

way from a standing policy, it must establish specific reasons for doing so in accordance with regulations established by the Minister. Two agreed and the third felt that the proposal "does not define amendment procedures and therefore could lead to ad hoc plan modification". No one commented on the amendment procedure set out in 8.27.

Review of Plans

A number of briefs commented on the proposal (6.42) that municipal councils should be requird to formally review their adopted plans and planning statements at least once in the lifetime of each council, according to stipulated specifications. Some agreed; the majority disagreed; and a third group gave general views on the proposal. There was little quarrel with the requirement for formal review; the dissention was over the recommended two-year time period which a number of briefs felt was impractical. Most of those that disagreed felt that a four- or five-year review would be more workable. The views of those who disagreed with a review of policies once in a lifetime of each council were:

- This proposal would inevitably lead to inconsistencies, unreasonable delays and lack of certainty and stability in the planning system.

- Requiring a review for every change of council seems an expensive and time-consuming use of staff time.

- Requiring some form of continuous review would lead to municipalities delaying decisions on that ground alone. Councils should be prohibited from refusing to act on proposals which currently conform to the plan on the grounds that the plan is under review.

- If the review were conducted as frequently as proposed, a council could make substantive changes every two years whether justified or not. This could lead to constant upheaval of the planning system, uncertainty among residents and would defeat the purpose of a plan as a blueprint for orderly development.

- The term of office of a municipal council is insufficient time to adequately review their adopted plans and statements.

Other comments on the proposal were:

- While we agree that plans and planning statements should be regularly reviewed, we believe that the municipalities should set the terms and conditions of that review.

- Each plan should be required to include a statement indicating the planning activity which will be undertaken and the pertinent situation which will require a review of the plan.

- If the type of review becomes a major overhaul of the municipal plan, the practice would not be acceptable. To prevent the wrong interpretation of this proposal, it is important that the context of the review report be limited in the legislation in order that it deal only with the six matters outlined by the Committee.

- Procedures for review must be regulated so that review and updating are meaningful, goal-oriented exercises. As well, time constraints should be incorporated in the system (time taken for review process). This can only be done if statutory requirements exist in the Act itself rather than in regulations.

6 PUBLIC INVOLVEMENT

The proposals regarding public involvement are closely tied to those for increasing the scope of municipal planning authority and changing the role of the Ontario Municipal Board. They are part of a planning system described throughout the Report designed to ensure greater planning autonomy and accountability at the local level.

The Report distinguishes between what should be specified in the Act for public involvement to apply to all municipal planning actions, and what should be determined at the municipal level in terms of a policy to be detailed in a municipal plan. Analysis of the briefs indicates a mixed response to the chapter. Agreement was expressed with the proposals to describe requirements for public involvement in the formulation of plans in a planning statement rather than in the Act; to ensure the rights of community associations; and to provide public access to planning information. There was less consensus on establishing process requirements in legislation including notification and hearing responsibilities and clerk's records. The issue, very clearly, was not with the principles of the reforms, nor with the desirability of a less formal approach, but with the increased workload that would likely result. In addition, there was a strong concern that the proposals as a whole would lead to a further complication of the planning system. These views are expressed in the following comments:

- Unfortunately, the Review Committee has not sufficiently discussed the repercussions of a council having final authority over its own planning controls. Obviously, councils no longer will function in their present capacity if this type of proposal is to be implemented. Council would, in our opinion, function as a tribunal. This not only places a council in a very interesting but a very precarious and exceedingly difficult position.

  The concept also makes the planning process and the decision-making processes of council very laborious and tedious. Not only must a council fully comprehend the existing

official policies of their municipality but they must also be aware of all regional and provincial policies. In any event, the planning system will likely become much more complicated, time consuming and, in a municipality to municipality relationship, a very confused process.

- The Committee proposals for public involvement run counter to the approach that changes to the Act should not further complicate the system and should not have unpredictable consequences. We believe that the extent of the changes proposed will have the opposite effect and thereby lead to greater delays and unknown consequences.

Other general comments on the chapter were:

- We believe that further recommendations are needed here to establish clear guidelines for public participation throughout the whole planning process. Coupled with improved efforts in education and information distribution, it should be possible to actually streamline the decision-making process while ensuring a high level of community input.

- New legislation should strengthen or guarantee avenues of public involvement so that the politicians and even professional planners cannot "have their way" without it.

- The Report suggests that communities have more say in their planning destiny, but does not suggest that planning should follow statements of direction arrived at through public consensus which really should be made first. Politicians feel more comfortable in planning matters knowing they have the support of public consensus. Fewer citizens are upset as well.

- The existing system for public participation usually draws out negative comments from those immediately involved since they are usually in favour of little, if any, development. There is little opportunity for support from others who would obtain long-range benefits, such as housing and jobs through economic activity. Therefore, consideration should be given to structuring a system that would give a broader-base consideration to the matter at hand.

- The result of shortening the approval period could result in a withering of existing access in notification activity.

- We do not agree totally with the recommendations and suggest the inclusion of municipal information offices and widespread notification.

- The Ministry of Housing should stimulate experimentation in public involvement in municipal planning through provision of staff assistance and demonstration grants.

- Experience under the existing Act has shown that public participation does work in the planning process but, in meeting this objective, little consideration has been given to the length of time it now takes to obtain a planning decision... In order to preserve the right of public participation and at the same time eliminate costly delays, we submit that any planning system must contain prescribed time periods for each step of the planning process.

- Municipalities should be required to:

  a. When placing ads in the local press regarding changes, these should be in plain concise English and not a legal description of plans and paragraphs which in most cases is unintelligible to ordinary citizens.
  b. To print maps of areas where changes are requested so that all persons affected can more readily comprehend the request in essence.
  c. To require as a stage in an application to demolish a building that the applicant place a notice of intent in the local press (one occasion sufficient).

Policies for Public Involvement in Municipal Plans

There was strong support (primarily from municipalities) for the proposal (6.17, 9.5) that the procedures for general public involvement in the formulation of municipal plans should not be specified in the Act, but should be determined by each municipality in a formal planning statement that is subject to appeal and provincial veto. Those who disagreed felt The Planning Act should be more specific as to public involvement requirements.

A few briefs indicated some confusion about what is actually being recommended. As expressed in one submission: "The Report appears to recommend that The Planning Act deal only with very general questions relating to public involvement and that the details on this process be left to the municipalities... However, the distinction between what would be specified in the Act and what would be left to the municipalities is very unclear, and without greater clarity, it seems to suggest weak support for public participation".

Process Requirements for all Statutory Planning Actions

The legislative process requirements for public involvement are described in recommendations 9.11 to 9.18, which state that the Act should provide that all potentially affected parties have the right

to be notified of all municipal planning proposals, to express their views and to appeal the proposal. The Act should specify basic requirements for notification, hearing and objection to be applied to all municipal planning actions. The Minister should prescribe, by regulation, the procedures to be used for public notification. Considered by many as the most important recommendations on public involvement, views on the proposals were mixed, with several briefs requesting greater clarification of what would be entailed. Comments focussed on the definition of "potentially affected parties", public involvement in all municipal actions and the formalization of process requirements. Those who endorsed the proposal did not give reasons. General concerns about the proposals were the administrative burden and the increase in the amount of time involved.

Those who commented specifically on "all potentially affected parties" felt the term was too broad or vague. As suggested in one brief: "Since failure to notify a potentially affected party may undermine the validity of Council's action, this phrase should be defined either by the municipality in a policy statement about public involvement or by the Minister in regulations".

Others, (mainly development interest groups), did not agree that the public should be involved in all municipal planning actions. One comment was that "public involvement should be limited to plan formulation. Once these general policies governing new development have been documented and properly adopted, no further public involvement is warranted. Elected officials should then be responsible for policy compliance".

Most of the briefs that disagreed with the proposal commented on the specific aspects of the process requirements: notification, hearings and clerk's records. Their opinions are summarized in the subsections that follow.

a) Notification

There was no consensus on the proposed requirements (9.13, 9.18) for notification to be specified in Minister's regulations. Some felt the procedures were too extensive; others felt they did not go far enough. Those who indicated they were too onerous made the following points:

- As outlined in the Review, vastly improved notification procedures would be required. If the onus for funding improved notification procedures were to fall on the local governments, without a realistic increase in municipal funds for this purpose from the provincial government, then the needed reform would likely not come about.

- This recommendation is not well enough explained in the Report and could be extremely onerous for muncipalities. Mandatory posting of notices in public view on the subject property is totally unacceptable.

- To declare such matters by regulation would not serve the best interests of planning in Ontario. Perhaps a workable compromise would be to declare regulations which would govern public participation and notification of such matters as are not appropriately dealt with by the muncipal planning statement.

- Consent applications relating only to a lease, mortgage or a corrective measure in a transfer document should not be advertised.

Others who felt that additional measures should be provided to secure adequate notification made the following suggestions:

- In order to protect the legitimate rights of individuals and therefore ensure that municipalities adopt some adequate form of public notification, we recommend that the Minister adopt "minimum common standards" for procedures for public notification.

- A letter should be mailed to every property owner when a rezoning is considered by council as many people do not subscribe to newspapers.

b) Public Hearings

A few briefs commented specifically on the proposal (9.14) that councils should be required to hold formal hearings prior to making any planning decision; this responsibility should not be permitted to be delegated to a planning board, although a committee of council may hold the hearing and report to council as a whole. This proposal is in accordance with earlier suggestions regarding the assignment of municipal planning authority to municipal councils.

There was strong disagreement with the proposal. Some felt that hearings should be delegated to planning boards, others felt that when there are no written objections hearings could be dispensed

with; a third group felt that councils' workloads would be seriously extended by this proposal and it would result in increased delays in the planning process. As stated in one proposal: "The Report does not recognize the number of proposals, plans and applications processed by a municipality on a regular basis. The time and staff factor involved in formal hearings prior to any decision would be completely unrealistic". Two further views on the issue were:

- All factors concerned in a hearing should be introduced and resolved at one hearing, e.g. environmental impact, agricultural conflicts, etc.
- When Council acts in a legislative way, it is not bound by the rules of natural justice. If Council gives a fair hearing to both sides, it would appear to act in a legislative manner. Confusion on this point could be avoided if in the new Planning Act the type of hearing was set out in legislation.

c) Clerk's Records

Views were split on the proposal (9.15) that the municipal clerk should be required to prepare a formal record of the council's actions on every planning decision, including a summary of the written and oral reports and submissions made to council, for use in any subsequent appeal proceedings. Some agreed except for the requirement for clerks' summaries. The major concern was the legal implication of keeping anything less than a verbatim record and the increase in time, cost and the workload that this would involve. Other comments on the proposal were:

- Some flexibility should be given to permit council to appoint an alternate to the clerk for keeping planning records.
- Summaries of submissions to council should not be submissible to subsequent appeal proceedings because these summaries are judgments of the civil servant preparing such summaries.
- Government should provide more detailed or specific criteria to guide municipal clerks in preparing the necessary records of meetings.

Public Access to Information

Of the few briefs that commented on the proposal (9.17) that all written material provided to the municipal council for its

consideration should be available for public examination, most agreed. The only reservations about the proposal were as follows:

- Public should have all background information available to council, but documents that are advice to council, such as reports from its solicitor, should remain privileged.

- It is agreed that all written material should be available to the public for examination on any proposal, but it should be recognized that certain constraints exist in terms of staff, resources, etc. If the recommendations were implemented to the letter, a clerk would be required to take transcripts of all verbal presentations made and would have to be able to certify them as entirely correct for litigation purposes.

Rights of Community Associations

Although there was some disagreement, the Report was highly commended by both municipalities and community groups for the proposal (9.20) that members of ratepayer groups and other voluntary associations should have formal rights to be notified of municipal planning proposals and to participate in public meetings and hearings, and in any appeal proceedings. The quarrel essentially was over giving community groups "additional rights" beyond those given to any interested citizen. Several briefs offered comments and suggestions:

- The guidelines for allowing community participation should be specified in such a way as to allow individuals to speak on behalf of the community, whether or not they speak for an organized group.

- "Other voluntary associations" should include the Social Planning Council.

- Ratepayer associations should not need to be informed of minor variances.

- Ratepayer groups and individuals that wish to be notified should be required to register with the clerk. The establishment of formal rights of notification could give rise to problems with respect to keeping track of active groups. Since such groups are often issue-oriented and appear and disappear without the knowledge of a local council, formal notification can be problematic.

- We agree in principle; however, this should not be incorporated into legislation but rather into a municipal plan or planning statement.

Some briefs commented specifically on the recommendation regarding rights of appeal for groups (9.21) which states that in cases where immunity from liability to costs is granted at the initiation of the proceedings, any costs subsequently awarded should be paid for by the Province. Briefs neither agreed nor disagreed, but made the following points:

- Some ratepayers organizations that purport to represent an area under examination in an OMB hearing may very well not be representing the views of the majority of the people to be affected by those deliberations — some effort should be made to determine if this is so at the time.

- A minimum number of persons (50) be required to sign any application for appeal to the Ontario Municipal Board.

- Prior to any appeal being launched and accepted by the Ontario Municipal Board, it should be reviewed by the initial decision-making body being appealed against.

- Council has agreed upon and requested that all costs, both municipal costs and legal costs, be borne by applicants who appeal their decisions to the OMB and have their appeal denied so as not to create a burden on municipalities for upholding their by-laws.

7 ONTARIO MUNICIPAL BOARD

In accordance with the emphasis in the Report to change the provincial role as an approving authority and strengthen local planning powers, major changes have been proposed to the concept and functions of the OMB. In essence, the Report recommends that:

1. The primary function of the Board is to hear appeals, on certain grounds, regarding municipal planning decisions. The Board should not conduct hearings de novo or determine the planning merits of any cases put before it. Given the recommended degree of local planning autonomy, the Board would not approve local planning actions.
2. The Board should not make final decisions on municipal planning matters, but instead should conduct hearings and make recommendations to the Minister or the municipal council, depending on the circumstances.
3. The Board should not determine provincial policy.

More than any other proposals, these reforms caused grave concern. A substantial majority of the submissions disagreed with the proposals; however, many agreed with the problems identified with the OMB, although they did not endorse the Report's conclusions. Some suggested modifications to the existing system. In general, the the emphasis in the briefs was to improve the operation of the Board rather than to change its responsibilities.

Those who felt the existing functions of the OMB should be retained identified three major areas of concern with the proposals:

a) The recommended procedures would be too time consuming and costly: a number of briefs were concerned that the proposed changes would result in additional delays; they recommended

that the responsibilities of the OMB should remain unchanged, but the hearing process should be "streamlined" by reducing frivolous appeals, holding preliminary hearings, imposing time limits on Board hearings, reducing material sent to the OMB for approval and limiting the amount of time for presentation and cross examination. By-laws to which there are no objections should automatically come into force.

b) An independent, impartial tribunal is necessary for the protection of private rights: briefs endorsing this view suggested the OMB should not be altered because it provides a "valuable arena for citizen participation" and a necessary impartial body outside political influence. The Report's proposals to limit the grounds for appeal and the Board's right to make a decision, it was felt, threatened these requirements and reduced access to the appeal process.

c) Local councils cannot manage the hearing requirements: those who supported this position felt the OMB should be retained in a "watchdog" capacity because municipal councils would not have the time to discharge this function properly, or they would favour political biases that would prevent "good planning", or because it was considered incompatible for a council to exercise both judicial and political functions simultaneously.

A few briefs suggested the existing role and functions of the Board should be retained with the following modifications:

- Existing OMB powers are in conflict with municipalities being given the right to form the destiny of their own planning, and therefore the Board should retain its existing powers with the exception of municipal planning decisions unless they are in conflict with the provincial plan.

- The Board should not be vested with the power of determining policy at either the provincial or local level, and where such policy is lacking, the Board should have the power to refer the matter back to whatever government level is indicated.

- There should be a requirement to file necessary information in advance of the hearings and less reliance on questions and answers at the hearing to establish evidence.

- The OMB should remain an independent tribunal with appellate and approval functions, but limited to the following:

  1. Development control tools may only be approved if in conformity with approved provincial policies and formally adopted municipal policies.
  2. If the OMB is experiencing difficulty interpreting a policy, the issue should be sent back to the elected body for interpretation.

Other suggestions regarding the OMB were:

- There should be a limit to the number of hearings (perhaps not more than four) that any one member of the OMB may hear within a year in any one locality so as to provide impartiality as far as possible.

- Two hearing members are a basic minimum to the exercise of most of the Board's jurisdiction.

- Members of the public should have the opportunity to question the policy decisions of provincial government.

- Members of the public should have the opportunity to cross-examine during hearings of the OMB without being represented by a lawyer.

- Should the current OMB practice of providing a forum for free professional expression be changed, safeguards should be instituted either through licensing of planners or other legislation.

Decisions by the Minister

The bulk of the submissions that commented specifically on the proposal (10.7) that the Board should not have the responsibility of making final decisions on planning matters, but instead should conduct hearings and make recommendations to the Minister or the municipal council, depending on the circumstances, disagreed with the proposal. Few reasons were given for either supporting or disagreeing with the proposal. Those who felt the OMB should retain the power of decision suggested that the proposed change would add unnecessary delays and would result in a transfer of decision-making from appointed officials in the OMB to the administrative staff of the Ministry of Housing making decisions in camera. Other comments (from development interest groups) on the proposal were:

- Emasculation of the OMB's powers should not be allowed. Giving local authorities power to rule twice on their decisions will remove impartial non-partisan considerations.

- We consider the retention of the Board's authority to hear and decide on appeals mandatory if there is to be an equitable balance between municipal autonomy and some province-wide consistency in the planning process.

- The OMB should have the power to make decisions except where there are intermunicipal disputes.

- The Board must have the power to correct abuses arising from a refusal to act or from wrongful acts of elected municipal officials.

OMB Approvals

A few briefs suggested specifically that the OMB should retain approval powers and all present appeal functions over municipal planning actions. The only concession was that when no objections are filed, zoning by-laws should automatically come into force (10.33). This latter point was endorsed by a number of municipalities. In this regard, one brief recommended that the Act should be amended to ensure that the Board will not interfere in the enactment of zoning by-laws except where it can be shown to the satisfaction of the Board that the action of council was:

. clearly not for the greatest common good;
. that it created an undue hardship;
. that some private right was unduly interfered with or denied; or
. that the council had acted arbitrarily or on incorrect information or advice, or otherwise improperly.

Provincial Policy Matters

There was unanimous agreement among the few briefs that commented on the proposal (10.7) that the OMB should not determine provincial policy. In this light, there was a request for provincial guidelines, and for the Province to "assume responsibility for policy and fix its relationship with the OMB to eliminate ambiguities and prevent the Board from engaging in policy formulation, so far is practicable. The independence of the Board should not be prejudiced

by ad hoc ministerial pronouncements". A further suggestion was that the Province should be encouraged to allow staff to represent their Ministry before the Board.

Hearings De Novo and Adjudication of Planning Merits

Some briefs commented specifically on the recommendations (10.7, 10.12, 10.13) that the OMB should not conduct hearings de novo, nor should it determine the planning merits of the case before it. Views were mixed, particularly on the de novo hearing, and more disagreed with the proposal. One brief stated that it was difficult to grasp "how the Ontario Municipal Board could wholly avoid concern for the planning merits of the proposal under its review and we question, for practical reasons, if such total neutrality would be desirable and progressive". Another stated that: "While the complete record of council and any prior proceedings would be before the OMB and thus the Board might in some cases be able to reach a conclusion on whether council acted on incorrect or inadequate information or advice, it is difficult to see how the Board could be expected to decide whether council's behaviour in reaching a decision was unreasonable or unfair without a full rehearing of the case. This would be a costly undertaking, and in light of a perceived frequency of hearings based on the two grounds for them, it would a time-consuming process as well".

Grounds for Appeal

A substantial number of briefs commented on the proposal (10.9) that the Board should only serve as an appellate body, and should hear appeals from parties who object to a council's decision or failure to reach a decision only on the grounds that the council's behaviour was unfair or unreasonable, or that the council acted or failed to act on the basis of incorrect or inadequate information or advice. The majority did not agree with the limitation on the grounds for appeal.

Those who agreed, including regional and local municipalities, made the following points:

- The Board's energies would be focussed where they are really required — where a municipality was alleged to have misused its authority. The courts and not the OMB would continue to deal with flagrant violation of rights.

- Restriction of the grounds for appeal is advantageous from the standpoint of reducing numbers of hearings.

- We agree except that grounds for appeal should not be restricted by legislation; the Board should be encouraged to concentrate on grounds of unreasonableness and unfairness.

- We support the proposal in principle, but suggest the meaning of such words as "unfair", "unreasonable behaviour" and "inadequate information" should be further clarified.

- There are two important advantages to this proposal: responsibility and accountability for decisions will be placed where they belong, with the persons elected for this purpose and not appointed bodies; and there will be greater inducements to all parties concerned to present a complete case at the time of the original decision by a municipal council instead of relying on the potential for presenting such a case before the Board.

Those who disagreed (municipalities, planning and development associations) felt the grounds for appeal were too restrictive, open to question in interpretation and represented a denial of natural justice. In this regard, the following comments were made:

- Allowing opponents to base their appeals on these grounds of inadequate or incorrect information would leave the way open to almost unlimited appeals. Appellants should only be able to appeal on the grounds of abuse of the system.

- Any party should be entitled to appeal any municipal planning decision and the Board should be required to hold a hearing on all aspects of the matter... The OMB in reaching a decision should presume that the council's decision is to be sustained unless the Board is persuaded that that would be harmful, discriminatory or unreasonable.

- If the grounds for appeal are so restricted and the merits of planning decisions would no longer be a valid basis for objection to the OMB, it becomes questionable just exactly how such a system would better protect individual rights than presently exists.

- Appeal on grounds of behaviour will result in a lot of legal quibbling which will have nothing to do with the merits of the case.

- These suggested grounds for appeal can be established for almost all appeals presently taken to the Board.

- We disagree with any change to the current function and role of the OMB. Municipal councils are notoriously susceptible to the voting power of existing ratepayer and resident groups. Such "self interest" groups usually support planning which enhances their property values and are often opposed to "good planning" which attempts to provide more affordable housing types, etc. For these reasons the checks and balances that the OMB performs is a vital component of the planning process.

- The proposed changes would lead to uncertainty and confusion. The actual scope of the new "appellate" jurisdiction of the Board could only be resolved by the courts — a discomfiting prospect.

On this issue, as mentioned in the previous section on process requirements, one particular concern was the information to be examined by the OMB — the clerk's records. As stated in one brief, the record of council's deliberations to be prepared by the clerk will create problems in terms of its content, accuracy and effect on the information presented to council in the first instance and later to the OMB.

Disposal of an Appeal

The majority of the briefs that commented on the recommendations on disposal of appeals (10.14 to 10.17) disagreed with the Report's position that where the Board finds that a council's behaviour was unfair or unreasonable, its findings and recommendations should be submitted to the Minister, who would have the authority to confirm, alter or veto the council decision for stated reasons. Where the Board finds that a council acted on the basis of incorrect or inadequate information or advice, it should return the matter to the council for reconsideration, on the basis of the Board's findings as to the correct or adequate information that should be considered by the council in reaching a decision.

General concerns were that the process outlined was too cumbersome, would create unnecessary duplication of work and would permit the intervention of another bureaucracy advising the Minister and the loss of an "open" decision. Other comments on this issue were:

- Under these rules, most appellants will choose to appeal on the grounds which provide a potential final decision by the Minister.

- Councils now use the OMB to render decisions they are unable to make. If these matters are referred back to council, no progress has been made toward a solution of the particular problem.

- Time limits should be placed on decisions.

- In all cases where the Board finds in favour of the appeal, it should return the matter to the council for reconsideration. The courts are the appropriate source of protection with regard to violations of natural justices and the assessment of "unreasonableness and unfairness" is not separable from "planning merits" or from political values.

- The proposed power of the Board to return a decision to a municipal council for reconsideration if the information before it is inadequate, would mean that the OMB would ultimately set the standards for adequacy, thereby becoming a means by which the OMB continues indirectly to set standards for municipal planning.

Existing System: Decisions by the Minister

Despite the fact that there was little support for the first proposal (10.7) that the OMB not make decisions but instead report to the Minister or municipality, views were evenly split in the later proposal (10.22) that even if the present approval system continues, the Board should recommend to the Minister and not make decisions on his behalf. Only municipalities responded to this particular proposal.

Frivolous Appeals

There was unanimous and enthusiastic support for the proposals (10.24, 10.28, 10.29 and 10.38) that all appeals to the Board and all requests to the Minister to refer matters to the Board should be accompanied by written reasons. Comments came from development interest groups and a number of municipalities. A few briefs suggested that greater use should be made of pre-hearings. Others felt that contrary to the Report, fees should be required for the posting of an objection and/or costs should be imposed for non-appearance. Two further suggestions were:

- The municipality, its planning advisors and the objectors should discuss the problem; the minutes would be sent to the OMB to assist in either approving the by-law or calling a hearing.

- The right to object to the Board should be limited geographically and to the extent by which an objector would be affected.

Decisional Criteria

Three briefs commented on and agreed with the decisional criteria proposed (10.31) if the OMB retains approval powers on zoning by-laws.

Consents

There was a general lack of support for the proposal (10.34) that if municipal councils are given authority to vary the consent decisions of committees of adjustment and land division committees, the Board should continue to hear appeals from these decisions, whether by the committee or by the council. Where the Board's findings and recommendations are not accepted by a council, there should be a right of further appeal to the Minister without an additional Board hearing. Briefs endorsed the continuation of the Board's current powers to hold hearings and decide on consent appeals as the Act now provides. A suggestion in one brief was that:

- Committee of adjustment and land division committee appeals could be minimized by procedures of the Board that provide for preliminary hearings, a discretion as to the awarding of costs, motions for leave to appeal, or the requirement that reasons for seeking the appeal be reduced to writing.

Other Appeals

There was strong endorsation for the proposal (10.36) that the Board should be responsible, on request by the Minister, for hearing planning disputes between municipalities, including disputes between local and regional municipalities, and should submit its findings and recommendations to the Minister for a decision. It should also continue to hear appeals on Minister's Section 32 orders and consent decisions, and should submit its recommendations to the Minister for a decision. Very few briefs felt the OMB should have the right to decide on these matters.

Petitions to Cabinet

A number of briefs commented on the proposals (10.43, 10.44) that rules of procedure for petitions to the Cabinet be established by regulations which should specify, among other matters, a specific time period in which petitions must be dealt with, failing which a petition will be deemed to have been granted. The Act should require that reasons be given for a Cabinet decision, and should stipulate the grounds on which Cabinet may alter an OMB decision. The majority of the submissions endorsed the recommendations. Those who disagreed (including development and legal interest groups) made the following points:

- Any appeal from the decision of the OMB should be to the Minister of Housing and be confined to arguments presented to the OMB.
- The right of petition to Cabinet on OMB decisions should be removed from the Act; decisions of the OMB should be binding.
- If the Cabinet fails to comment on a petition within the specified time, it should be the decision of the Board that stands, not Cabinet.
- Appeals beyond the Board should go to the courts.
- Time limits on Cabinet decisions will likely not be accepted by the government; Cabinet decisions are political and reasons should not have to be stated.
- Cabinet should not have to be saddled with looking at every "picky" problem. Cabinet should define those matters it will consider. Only major provincial policy issues should be entertained. Petitions to Cabinet should be permitted only in the following situations:
  1. that the OMB incorrectly identified or elaborated on provincial policy.
  2. that the policy applied by the OMB was inappropriate.

Other OMB Recommendations

Of the very few briefs that commented, there was no consensus on the following recommendations:

a) The Act should be amended to permit the Board to defer a hearing on a zoning by-law application until all other required certificates have been secured. (10.39) One brief suggested the OMB give a "premature" decision; three other briefs agreed with the proposal.

b) The Act should require the Board to keep a verbatim record of its proceedings on any planning matter, with the cost to be borne by the Province. (10.40) Two briefs agreed; two disagreed.

c) There should not be any statutory means of requiring the Board to be bound by precedent in dealing with municipal planning matters. (10.46) One brief disagreed.

d) There should be no decentralization of Board hearings, although preliminary hearings could be conducted outside Toronto and the Board should have an administrative office in Northern Ontario. (10.51, 10.52, 10.54) A few submissions recommended decentralizing OMB offices.

There was endorsement for the proposal (10.49) that the Act require the Minister to submit an annual report to the Legislature concerning the Board's planning decisions and their relation to provincial policies.

8 DEVELOPMENT CONTROL

A significant number of briefs, primarily from municipalities, did not comment on individual recommendations, but endorsed the development control proposals as a whole. Of the very few that were critical, the following general comments were made:

- We do not think that the system has the capacity to react effectively to new controls within the framework as re-adjusted. If there are to be dramatic changes in planning decision-making, then the modified instruments listed in the Report should be examined as against the accepted recommendations for structural reform.

- The recommendations in this section contain several positive aspects; however, the rigidities suggested in the interest of certainty and predictability such as finite design criteria or standards in by-law form for site plan control, and the need to spell out the uses which would be permitted through amendment to holding by-laws, defeat their purposes.

- The proposed system is extremely sophisticated for a municipality which proposes to use the tools of control as recommended. It is also susceptible to even greater delay than presently is the case, especially in the initial stages... An interim stage should be provided if the proposals are translated into legislation.

Other suggestions were:

- Nothing has been suggested concerning zoning enforcement problems; powers would be helpful whereby a fine can be levied for every day the violation exists.

- "Use" and "Building" should be distinguished under zoning powers.

- None of the items regarding procedures to be applied as development controls recognizes heritage conservation or includes toponymy.

Development Permit System

A substantial majority of briefs (80 per cent) endorsed the proposal (11.6) that the present development control system through zoning should not be replaced by a system of development permits, either universally or on a partial basis. Instead, there should be improvements in the use of development review and holding controls, as well as other zoning improvements. Those who disagreed felt that a permit system should have been further investigated. Two briefs recommended that such a system be introduced for areas of change and future growth, also where a neighbourhood plan is in effect.

Interim Control By-laws

There was virtually unanimous support for the proposals (11.13 to 11.15) that municipalities should have the power to adopt interim control by-laws which have the effect of freezing development in given areas while the council undertakes a review of the zoning and development policies for these areas. Such by-laws should have a one-year duration, with provision for extension for an additional year on the basis of stipulated conditions. The few criticisms of the proposal were as follows:

- It is strongly urged that municipalities clearly state the criteria by which these forms of temporary rezoning will be changed to permanent zoning permitting specific uses; changes to permanent zoning should become automatic upon the satisfaction of the criteria and not require further rezoning.
- A one-year freeze on development is unfair to landowners.
- Some by-laws now take over a year to be heard by the OMB. Interim by-laws would lapse before being heard.
- We are concerned that the one-year period for interim control by-laws may be too short, even considering a one-year extension, particularly in cases where detailed design work is necessary to implement secondary plans.

Holding By-laws

A clear majority (over 80 per cent) of the briefs endorsed the proposal (11.19) that municipalities should have the power to enact

holding by-laws in limited circumstances (rural lands anticipated for urban development and lands with unique design or environmental characteristics). The Act should require the municipality to adopt a planning statement that establishes the specific objectives and the basis for administration including criteria for amendments. Holding by-laws should not be limited to any specified time period. The concerns were, on the one hand, that the proposal permitted too much discretionary authority, and on the other, too much administrative work and a restriction on municipal authority. Comments from those who disagreed were as follows:

- Holding by-laws of unstated duration are not acceptable.
- All development would be accomplished by negotiation with the municipality in the absence of an official land use policy. This uncertain and ad hoc approach to development creates the conditions for unethical positions to be taken by those concerned.
- While this procedure appears straightforward, the amount of preparatory investigation necessary to develop meaningful planning statements would under the process be costly, complicated and time consuming.

Zoning Agreements

There was virtually unanimous support for the proposal (11.23) that zoning agreements should be explicitly permitted, but the Act should limit the matters that can be validly dealt with in a zoning agreement. Observations on this proposal were:

- We agree with this idea but if zoning agreements were limited to matters which could be included in development agreements, there would be no need for zoning agreements. We feel, therefore, that it would be more appropriate to allow municipal councils to extend the terms of zoning agreements as they see fit.
- Zoning agreements are not necessary should municipalities have appropriate development control powers.
- Development agreements should be limited to ensuring performance of measures directly related to approval projects.

Temporary Use Zoning

Several briefs commented on and agreed with the proposal (11.25) to permit temporary zoning for three-year time periods. Although only two specifically disagreed, a few had reservations about extensions to the duration of temporary uses.

By-law Review

Most submissions that commented agreed with the proposal (11.26) that the Act should require municipalities to review their by-laws every five years to curtail the use of obsolete zoning as a means of controlling development on a site-by-site basis. The few who disagreed were generally concerned about a five-year review and the specifications, in regulations, of the procedures.

Zoning Incentives

There was general consensus from municipalities and development groups on the proposals (11.29 to 11.34) to permit municipalities to use incentive zoning mechanisms such as bonus zoning and transfer of development rights. Those who disagreed had the following concerns:

- We are concerned that this proposal might prevent a municipality from applying the bonus system to individual rezonings for particular sites or in particular areas. We do not believe that the granting of the bonus should be automatic; nor do we believe that it should have to be applied to all properties within a class of zoning.

- Proposals imply loss of currently existing provisions for negotiation as award is automatic; they might result in a less sensitive local development pattern and less benefits to the municipality than are possible under the existing system.

- These proposals conflict with other proposals in the Report regarding exclusionary practices. The Committee should be concerned about the use of zoning incentives to stimulate assisted housing.

- We are concerned about the misuse of zoning incentives if plans and policies can be changed easily.

- Transfer of development rights contradicts present regulations for compensation municipalities now exercise while imposing planning controls including downzoning.

Development Review

The most widely discussed of the proposals for changes in development control were the recommended provisions for development review under Section 35a. In essence the Report proposes (11.40 to 11.52) that Section 35a should be broadened and made less particular, but should not be extended to include such matters as height, density and use, and should not apply to residential developments of less than 25 units or industrial and commercial establishments of less than 10,000 square feet. Exercise of such authority should be described in an appropriate planning statement in accordance with process requirements. Views were split on every aspect of the proposal including: authority over urban design; general broadening of the scope of the by-law; exclusion of height, density and use; the need for a development review by-law; 60-day review period; exemption of certain projects; and minimum size applicability. Architects were particularly concerned about the implications of giving municipalities authority over design.

The most contentious of the proposals was the limitation recommended for the application of development review to projects of not less than 25 residential units or 10,000 square feet of commercial or industrial floor area. Smaller towns in particular were concerned with this recommendation. Comments on this matter were as follows:

- We believe that the proposal to exclude residential developments under 25 units and industrial or commercial buildings under 10,000 square feet is not of provincial concern and therefore should not be included in The Planning Act. The proper place for any exemption would be in a municipal planning statement.

- In small villages and hamlets, even small-scale residential commercial or industrial enterprises can have a significant impact and can alter the local character. Development review should be permitted to apply to all classes of buildings.

- In our area, a 25-unit development is the norm not the exception. If the Report's recommendations were implemented, we would receive many proposals of 9,999 square feet of

commercial or 24 residential units. Council should be able to use Section 35a to ensure that small but important details can be controlled.

Other general suggestions regarding development review provisions were as follows:

- Government projects should not be exempted from the normal review process.

- If municipalities are to use this system of site development approval, municipal plans or policy statements must state precisely what the criteria would be for determining whether or not a given project would be "ordinary" or "complex".

- In areas for which development review is designated, zoning by-laws should be less restrictive and control only those aspects necessary to protect the public and the developer, i.e. land use, density and height. Other matters could be set down in a policy statement and defined through the development review process.

- Development control should be considered a result of team effort of professionals to combine the "general aspects" of the following:

  1. architectural and landscape architectural design controls;
  2. urban planning controls;
  3. engineering controls;
  4. traffic engineering controls;
  5. environmental impact.

- Development review powers (as in Section 35a) should be revised to provide municipalities with the means to manage development as it takes place in line with their zoning by-laws. The review could deal with:

  1. features (such as walkways) that can be provided in various ways;
  2. the relationship of a project to its neighbours;
  3. the progressive, orderly development of an area;
  4. coordination of projects with the required public measures;
  5. transitional areas (e.g. industry to residential where the relationship of old and new must be satisfactory).

  However, review powers should not include architectural control.

9 SUBDIVISION APPROVAL

The proposals for subdivision plans (Chapter 12) were recommended to reduce fragmentation of approval responsibility and the use of discretionary approval powers, and to increase the level of public accountability in the system. A considerable number of briefs from both municipalities and development groups endorsed all of the Report recommendations in this regard. A few suggested, in addition, that all implementing devices (zoning by-law, plan of subdivision, etc.) be processed concurrently. Other comments were:

- Greater attention to detail and procedures will call for a higher level of technical expertise, administrative and financial commitment to the planning process than most municipalities can muster. For "rural" or urbanizing areas which find economic constraints a reality, these requirements will be difficult to adopt.

- We feel the by-law should be considered first within the context of the system that provides for approval by the OMB... the merits of the lot layout of the subdivision plan could conceivably be dealt with by a hearing officer from the Ministry of Housing.

School boards suggested that they should be consulted during final approval and subdivision plans should incorporate safety protection for students crossing arterial roads and intersections.

Development Permission

There was unanimous agreement not to replace the present subdivision system with a system of development permits, but to introduce improvements in the existing system. However, a number of briefs endorsed the suggestion that an alternative form of subdivision control should be further investigated.

Circulation of Plans and Consultation

A considerable number of briefs endorsed the proposals (12.10, 12.12) that the Minister should establish, by regulation, the public agencies to be consulted in the consideration of subdivision plans and the time within which comments are to be received. The Act should require the approving agency to "have regard for" rather than "meet all the requirements of" the agencies consulted. A time limit of 45 days was frequently suggested as the period in which comments should be submitted. Those who opposed the proposal were mainly conservation authorities. Of the few municipalities that disagreed, most were second-tier.

The major concern of the conservation authorities was that the rewording of the Act to "have regard for" would permit municipalities to disregard the authority requirements. Several authorities requested that their functions be defined in the Act or that the approving authority be required to meet their stipulations where fill and construction regulations are concerned. One brief suggested that the proposal encourages polarization and confrontation between government agencies and municipalities.

The municipalities that did not agree with the proposal were primarily concerned about the Minister establishing by regulation the agencies to be consulted. They felt that the selection of such agencies should be left to municipal discretion.

Draft and Final Approval

The bulk of the submissions concurred with the proposals (12.17, 12.18) that the Act should stipulate the matters to be covered in draft subdivision approval and should define such approval to constitute genuine approval in principle. Also, where draft approval is given, "subject to the approval" of other agencies, the approving authority should be required to stipulate the criteria or specifications to be used by the agency concerned to determine compliance. Disagreement was voiced by conservation authorities, two regional municipalities, a small town and an individual. Conservation authorities were concerned that their interests would not be adequately dealt with in the legislation, and that they should be permitted to establish their own criteria for work to be completed.

The regional municipalities suggested that it was unacceptable to stipulate in the Act matters to be covered by draft approval and to specify the standards and criteria to be employed by the respective agencies. A further suggestion was that a time limit be imposed on final approval. No one submitted specific suggestions or comments on the matters to be stipulated in the Act for draft approval.

Conditions for Final Approval

There was substantial agreement (over 85 per cent) with the proposal (12.23) that the Act be modified to permit the approving authority to impose only those conditions which are reasonably related to the needs of the particular subdivision. Disagreement was expressed primarily by growing municipalities.

A few briefs were concerned with the vagueness of the term "reasonably related" and felt a more precise terminology should be used. Other concerns were as follows:

- It is very difficult to determine where the needs of a subdivision end and the needs of the general community begin. This is especially true with regard to the so-called soft services such as fire stations or libraries.

- We would suggest that while the conditions for approval should be restricted to a reasonable degree they should not be restricted solely to the development of the given subdivision.

Of the few briefs that commented, there was general agreement with the proposals (12.26 to 12.29) to formalize practices and procedures concerning suspension, extension or changes in draft approval.

Matters to be Regarded

A number of briefs commented on the various Report proposals (12.30 to 12.47) to rationalize and redefine the various matters to which regard is to be given in considering subdivision plans; to require the approving authority to establish the criteria to be used in considering these various matters; and to state the specific reasons for which a plan is not approved, on the basis of any of these

matters. The most frequently discussed points were those regarding the provisions for school sites and reasons for refusal.

Of the few briefs that commented, opinions were mixed on the suggestions in the Report that:

1) The umbrella phrase "health, safety, convenience and welfare" be dropped, and the specific matters listed in this subsection of the Act (33:4) be relied upon to provide the required direction.

2) Regard be given to the subdivision plans consistency with the municipalities planning policies and compatibility with adjacent subdivisions.

3) Reasons be given by the Minister why a plan is premature; a municipality state criteria in a planning statement for assessing prematurity.

4) Regard be given to the appropriate engineering, natural environment and conservation criteria which should be established in regulations/planning statements.

Reasons for either agreeing or disagreeing were generally not stated.

a) Schools and school sites

The position on the suggestion (12.46) that the Act not be changed from the existing wording "that regard be given to the adequacy of school sites" is difficult to determine. Most of the briefs that commented, a large proportion of which were from school boards, did not specify agreement or disagreement but instead offered suggestions. Out of 30 school boards, 22 recommended that "the adequacy of school sites should remain the prerogative of a board of education in accordance with its individual policy". A few briefs were concerned that provisions were not recommended to "acquire" school sites or at least conclude negotiations on a basis satisfactory to the school board. Other comments on the recommendation were as follows:

- With the responsibility for planning being relocated with the municipal council, the existing power of councils to restrict school boards, through zoning, in the acquisition of school sites, should be further examined.

- It is recommended that an approving authority take specific action on school board objections on proposed subdivision development to ensure that a developer is directed to meet a school board to attempt to resolve any objections to the satisfaction of all parties concerned.

- A developer should be required to submit written proof that he has consulted the school board on the adequacy of the school sites.

- Where a school board feels the plan will create serious problems, a coordinated review should be undertaken by the Ministries of Housing and Education.

- It is suggested that a closer liaison should be established between the Ministries of Housing and Education whereby the Ministry of Education will be informed of new housing developments and will cooperate by allocating the funding necessary to provide the sites and facilities to accommodate student growth.

b) Reasons for Refusal

There was virtually unanimous endorsement from a number of briefs commenting on the proposal (12.47) requiring reasons to be stated by the approving authority if approval is refused. Only one municipality disagreed, and gave no reason.

Parkland Dedication

A majority of briefs agreed with the proposals that municipalities should be allowed to secure parkland dedications in residential subdivisions on the basis of one acre per 120 dwelling units (as an alternative to 5 per cent) only if they have established the basis for the higher requirement in an appropriate planning statement. Parkland dedication may be secured in commercial and industrial subdivisions if the municipality has adopted an appropriate planning statement. The Minister should establish by regulations the maximum amount of park dedication municipalities may require in industrial and commercial subdivisions. The disagreements generally were over the amount of land to be dedicated in residential subdivisions and whether any land should be dedicated in non-residential subdivisions. Views on these matters were as follows:

- Parkland contribution should be increased to one acre per 100 dwelling units.

- Parkland dedication should be left to the discretion of the policy-making body, to be established in the appropriate policy statement.

- The maximum limit of non-residential park dedication should be stated in the Act rather than regulations.

- The amount of parkland in industrial subdivisions should not be negotiable.

- Neither park dedication nor cash should be extracted from commercial or industrial development.

Other comments on the proposal were:

- Nowhere is there a specific definition as to what is public parkland, the variation between public parkland and greenbelts and the distinctions between developable lands and non-developable lands being used for such parkland purposes.

- Parkland should be defined as "open space" and should include all public open space, and other recreational space, but excluding floodplain lands so established by conservation authorities on main rivers and streams.

Cash in Lieu and Use of Park Funds

A number of briefs commented on the proposals (12.54, 12.58) that municipalities should be authorized to require the payment of cash in lieu of dedicated parkland rather than being permitted only to accept such payments and, where a municipality has formally adopted an appropriate planning statement, it should be exempt from ministerial approval for the use of such funds for park development purposes. There was almost total agreement with these proposals; only one brief disagreed. Some suggestions on these matters were:

- Where land is available, cash in lieu should not be taken.

- Where there is a rezoning to higher densities, some provision should be made for exacting additional moneys for parkland through rezoning or development review.

- The practice of requiring "lots in lieu" of land dedication should be prohibited by statute.

Some concern was registered about the proposal (12.61) to permit municipalities to use dedicated park sites for other public purposes without requiring ministerial approval. One brief felt the position

was inconsistent with the proposal (12.59) to retain ministerial approval over the use of parkland funds for other than park or recreational purposes. This brief recommended that authority be given to the municipality in both cases.

10 LAND SEPARATION CONSENTS

The submissions that commented on the chapter on land separation consents (13) dealt primarily with the proposals regarding part-lot control and the decision regarding the circumstances in which a subdivision plan is necessary. In addition, a few briefs discussed the suggestion that the range of transactions that are exempt from subdivision control should be broadened. Two briefs pointed out that if, as recommended, minor adjustments in built-up areas did not require committee approval, a problem would arise concerning the interpretation of "minor adjustment".

Other suggestions for changes in consent legislation were:

- Section 29(2) should be amended to provide that a consent to selling an abutting lot is not required when the lots were historically separated.

- Section 29 should not prohibit conveyances of a part of a lot when the grantor retains ownership of abutting lands.

- The whole philosophy of the consent process may be outdated; the process should be investigated in particular to recognize that it results in two separate land parcels; the consent procedure should be redrafted to parallel the procedures of registering a plan of subdivision.

- Section 29 currently presents problems with regard to real estate transactions including: unnecessary and costly title searches; unnecessary applications for consent to severance and successive transactions involving the same land; constant litigation re the legality of titles.

- In order to close two rather large loopholes in subdivision control, the exemption of lots created by will and lands sold by municipalities from subdivision control should be eliminated.

- A provision be incorporated in the Act whereby an extension not to exceed three months could be granted for the completion of a severance application where circumstances warrant an extension.

- Complete township lots (50 or 100 acres lots on the original survey) should be considered a lot on a registered plan of subdivision.

- We recommend that conservation authorities be exempt from committee approval for partial purchases, as has been done with school boards and municipalities.

Surprisingly few committees of adjustment and land division committees commented on the reforms proposed for consent legislation.

Part-Lot Control

Views were evenly split on the proposal (13.7) that universal part-lot control should cease, but municipalities and the Minister be authorized to institute part-lot control on defined blocks in new subdivision plans and in specific geographic areas, subject to normal process requirements. Those in agreement included the Provincial Association of Committees of Adjustment and Land Division Committees. Few reasons were given for either endorsing or disagreeing with the proposal. One brief stated that universal part-lot control should cease in urban municipalities, and another suggested the exemption should only be permitted for halves of semi-detached lots and individual new housing lots. Those opposing the proposal, which included a number of large urban municipalities, suggested the alternative would be more costly than the existing system, which affords the municipality the opportunity for development review. The proposal, it was felt, would result in the need for a number of individual by-laws.

Subdivision Plan Necessary

A substantial portion of briefs (80 per cent) endorsed the proposal (13.9) that consents should be granted by a committee where it concludes that a registered plan of subdivision is not necessary for the proper and orderly development of the land in question rather than for the proper and orderly development of the municipality as a whole, as the Act now provides. Those who disagreed felt committees should be concerned with the orderly development of the community at large. One brief stated that the proposal was acceptable providing regard

was given to the nature of the adjoining development. Two other suggestions were:

- The Act should be specific as to the conditions under which plans of subdivision are necessary, to ensure consistency.

- We recommend that the creation of more than four lots be by way of subdivision plans to eliminate problems regarding hydro, storm drainage, sewage disposal, etc.

11 DEVELOPMENT STANDARDS AND REQUIREMENTS

The proposals concerning development standards and requirements are based on the stipulated provincial interest in the assurance of an adequate supply of affordable housing and the provincial obligations to ensure that a municipality's planning actions do not violate the civil rights of the affected residents. Widely commented on in a number of briefs, the proposals as a whole drew a mixed response. There was no consensus on the recommendations to require the Minister to establish development standards and requirements, to set limits on density and lot and floor area, to restrict lot levies and to set a maximum on application fees. There was, however, hearty endorsement of the proposals to prohibit municipalities from engaging in exclusionary planning practices, to restrict consent dedications to the severed property and to raise consent and variance application fees.

Although most briefs commented directly on the proposals, some made general statements about the chapter in its entirety. A few briefs endorsed the proposals as a whole; others were concerned that the chapter represented a complete contradiction of the principles of local autonomy and non-interference in good planning. Few briefs viewed the proposals as the policy extension of provincial interests, or the legitimate basis on which the Province could intervene in local planning actions.

General comments on the chapter were:

- Local municipalities are most capable of discerning matters such as the demand and supply of housing and the financial levels that relate to various developments; the settling of standards should be done locally, based on local norms, needs, values and desires. Process requirements and the provincial veto seem sufficient to prevent the proposed degree of provincial interference in local matters.

- The content of this chapter is in conflict with the previously stated position that the Province should not be interested in whether municipalities engage in "good planning".

- The Act should be amended so that municipalities not be permitted to differentiate between standards for rental and condominium accommodation whether projects are new or converted.

- Servicing costs for developing residential, industrial and commercial land should be reduced by reducing the current standards for road allowances, paving requirements, curb, gutter and sidewalk requirements.

- Nothing less is recommended than a provincial requirement that sets maximum road and development standards for a definite percentage of housing subdivisions approved by a municipality or region.

- The recommendations are all relevant to the National Housing Act; they should be further discussed with Central Mortgage and Housing Corporation.

- Local improvement costs on school sites should be borne by the municipality in which the school is located and not by the developer.

Provincial Development Standards

There was wide divergence of opinion on the proposal (14.10) to require the Minister to establish, through regulations, the range of development standards that can be incorporated in a municipality's planning instruments and imposed on development proposals. The Minister should be authorized to alter these standards and specifications for stated reasons at the request of the municipality. A number of briefs endorsed the proposal, almost as many disagreed and a third group felt the principle was acceptable providing it was expressed in "guidelines" rather than regulations. Those who disagreed included a number of counties and regions. The proposal was supported by several first-tier municipalities, developer and architectural associations and single-tier counties and regions.

Those supporting the proposal made the following comments:

- The social need recognized by this proposal is a very real one ... and the Report recognizes the need for provincial coordination of municipal action.

- The development standards should be realistically derived and should ensure that municipalities cannot arbitrarily set their own maximum standards which exceed those in the regulations. The government should provide incentives to municipalities to impose cost saving development standards which would have the potential of lowering housing costs.

- The established regulation should avoid any opportunity to the municipality to employ discretionary powers or ad hoc decision-making.

Many of those who disagreed listed the conflict with local autonomy or provincial interest in good planning as their reason. A few others were concerned that local differences were too distinct to be suitably dealt with in a uniform approach.

Further comments on the proposal were as follows:

- The provincial interest in housing can also be protected through issuing an explicit provincial housing policy; monitoring municipal planning statements on housing; and through issuing guidelines.

- The Report states that site development standards should not be derived from municipal financial considerations, but it does not suggest alternate methods of collecting municipal revenues. It is true that zoning by assessment may not be appropriate, but the proposal is inappropriate in the absence of an alternative method of obtaining municipal revenue.

- We feel that the Province should assure provincial policies are adequately taken care of in policy plans, and if this is a provincial policy then the matter will be settled when the Province has input into the plan. Municipal plans must be in conformity with provincial policy. If the municipality did something different, or was more lax, then it must justify its reason and action.

- Regulations for development standards must recognize northern problems and characteristics.

- If authorized, such standards should be developed in consultation with the affected area municipalities and should be subject to all normal process requirements including rights of appeal.

- Environmental matters of province-wide importance should be included in the suggested standards.

Delegation to Region

About 60 per cent of the briefs that dealt with the matter endorsed the proposal (14.11) that where there are regions or counties, the Minister should assign the responsibility for establishing the standards to those upper-tier municipalities requesting this authority. The Minister should be allowed to recall this authority where advisable, for stated reasons. He should be responsible for ensuring consistency in the standards employed in neighbouring regions and municipalities outside a two-tier planning jurisdiction. Most regions and counties supported the proposal; the views of several lower-tier municipalities were mixed. The general concerns were that local conditions were too varied to permit the proposal to be applied satisfactorily and provisions would have to be made to permit the expression of local identity. One brief stated that "regions are not necessarily coincident with broad housing markets. If standards are not controlled by the Minister, they should be left to the local council". Another suggested that there must be some assurance that the delegation of authority to set housing standards as well as housing development targets would be regulated by the government, such that regional municipalities and counties in strategic areas could not abrogate their responsibility to provide housing in keeping with regional economic and industrial growth.

Exclusionary Practices

A substantial majority of the briefs (over 80 per cent) from municipalities and social planning agencies endorsed the proposal (14.18) that the Act should prohibit municipalities from engaging in exclusionary zoning or planning practices that prohibit the occupancy of dwellings or sections of a municipality on any basis other than density. However, some of the briefs that disagreed indicated some confusion about the proposal.

Although the Report states (14.17) that it is not intended that this proposal be used "to preclude diversity in the distribution and characteristics of housing", one social planning agency felt the provision would mean that municipalities could not use zoning to ensure desirable mixes of household sizes. Another frequently mentioned concern was that the proposal would inhibit the provision

of housing for senior citizens or other special need groups. As expressed in one brief, the Report "does not make clear how this approach would be put into effect without calling into question the legitimate use of zoning to regulate ... assisted housing, senior citizens and single persons housing or group homes. We therefore recommend that no action be taken on this proposal until the scope of the term 'exclusionary zoning' has been clarified and an acceptable means of implementation has been spelled out". The intent of the recommendation was that local planning controls should not be used to prevent the occupancy or location of facilities for special classes of occupants (pass by-laws to probibit group homes in certain locations, for example). This does not mean that a particular housing authority cannot provide senior citizen or assisted housing. However, this point should be further elaborated.

Of those that disagreed with the proposal, the following reasons were given:

- The issue is not separable from local planning and should be left for local determination by council; moreover, it can serve as a 'back door' means by which provincial intervention in local planning decisions can be justified.

- Exclusionary zoning or planning practices should be maintained to assist certain age groups or those with limited physical or mental capacities.

- While the concept of zoning unrestricted by age, marital, racial or family status is one which appeals on the grounds of justice and equity, the inclusion of such criteria is undesirable to say the least — they could lead to a sort of planned anarchy.

Other comments were:

- There is agreement with the recommendation except that it should not be extended to prevent the single family concept in that municipalities should still be able to prevent single family dwellings being converted to multiple units or other uses which may not be compatible with adjacent uses.

- There may be problems with certain undesirable groups such as motor cycle clubs; we agree that certain groups cannot be excluded from the whole municipality, but certain areas should still be protected.

- With reference to the recommendation to either delete the reference to 'character and use' of buildings in Section 35(1)(4), or rephrase to prohibit its application to occupancy: while appearing to support the position of the Ontario Association for the Mentally Retarded, this proposal would in practice not change anything. If a municipality decides to exclude group homes from an area, local associations will be required to amend 'density' by-laws to permit group homes and will meet the same types of problems that have previously existed. Municipalities should be required by law to permit group homes in the required number, subject to restrictions on numbers and density.

Zoning Standards

As with the proposal to require the Minister to establish the range of permissible development standards and requirements, there were mixed views on the recommendation (14.21) that the Minister should be required to set an upper limit on the minimum lot and floor area and a lower limit on the maximum density to be established in major areas of new development, and the maximum servicing requirements and engineering standards that can be imposed in such areas. Some agreed, the majority disagreed and a few had certain reservations. Those who disagreed (primarily municipalities) generally indicated interference with local planning autonomy and the impracticality of uniform requirements as their reasons. Other comments on the proposals were:

- We endorse this proposal as long as the phrase 'lower limit on maximum density' means 'minimum density allowable in a given major area of new development'. In other words, if any new development is to occur, it must be at least a certain density. Also, we endorse this proposal only if it applies to new development, not to conversions or renovations of existing structures.

- The Province should intervene only when the limits set by the municipality conflict with the provincial interest in housing.

- There should be a range of housing provided but not at the expense of those who are able to afford a more luxurious lifestyle. Maximum densities should be stated in official plans but not in provincial legislation.

- Imposing limits on density and floor areas may narrow housing choice. Limits suggested could be applied either as a percentage of the total housing stock built in a municipality over a particular time period or be applied on a specific subdivision by subdivision basis so as to allow variety.

Provincial Monitoring

Of the few briefs that commented, most agreed with the proposal (14.23) that the Minister or regions with delegated approval powers should be required to monitor the cumulative impact which the specific development standards in effect in an area have on the implementation of provincial or regional housing policies for that area. Some briefs, however, interpreted this proposal to mean a different form of provincial action than that proposed elsewhere in the Report. Comments on this matter were as follows:

- While endorsing the objective of this proposal, we feel that the Act should not and need not specifically constrain municipal planning to protect provincial objectives in light of the Review's recommendations for provincial intervention and veto, which themselves are to ensure the primacy of provincial policy.

- Why should this issue be treated differently from other provincial or regional issues?

- Provincial and regional areas of concern are recognized; however, guidelines should be established to avoid the necessity of strict monitoring and possible intervention by the Province or region.

- This should be satisfied through the official plan development and review process.

Other suggestions were:

- We concur with the necessity for senior levels of government to constrain area municipalities from employing practices which would impair the achievement of provincial housing goals so long as these goals themselves are realistic and sensitive to local circumstances.

- It may be necessary to do more than monitor the cumulative impact of individual developments to ensure policy compliance. Additionally, upper-tier governments must be willing to meet the costs of implementing their policies.

- We feel that the government should adopt housing development goals and strategies on a regional basis so that the required growth in the housing stock in the more rapidly urbanizing areas of the Province be established. Annual rates of increase in the housing supply should be monitored and related to housing targets in order to more accurately assess the role which municipalities must play in the provision of adequate housing for both existing and future populations.

Lot Levies

Slightly more submissions agreed than disagreed with the proposal (14.13) that municipalities should be allowed to impose only those financial levies which relate "fairly and reasonably" to the particular development involved. Developers and subdividers should not be required to pay for the capital cost of physical works beyond what is required to bring the site or subdivision to a condition suitable for the proposed occupancy. Regarding the latter point — developers contribution to service provisions — those municipalities that disagreed felt developers should be required to contribute to works outside the subdivision since new subdivisions increase the overall demands for community services.

A wide range of views was expressed concerning the proposed lot levy policy. Some briefs were concerned to avoid a discretionary interpretation of the phrase "fairly and reasonably"; several uniform methods were suggested for applying the levy. Others indicated means of extending the imposition of the levy beyond the specific development in question. Comments on this issue were as follows:

- Inasmuch as it would be difficult to state that a levy being charged related fairly and reasonably to the particular development involved, it is suggested that a municipal levy ceiling be established by the Province which would have levies payable equivalent to the rate of the per capita debt that then exists in the municipality. All funds collected by a municipality by way of a levy should first be applied to reduce the amount of capital borrowings for that particular year.

- The imposition of a uniform financial levy for all developments should be recognized as an approach for the municipalities to pay for the physical costs of development if said levies are fair and equitable and in accordance with stated municipal policy.

- Levies for services should be applied on an area-wide general cost basis for each specific service.

- Imposts for the costs of hard services should be levied on all owners within the secondary plan area covered.

- Levies should not only be collected for hard services but should also be collected for soft services.

- Municipalities should be allowed to impose financial levies which relate to the overall cost of new development, including, for instance, storm and sanitary sewers and road improvements.

- Establishment of development levies is properly an area of local and regional government concern. The issue involves wider issues of the distribution of taxation resources and municipal accountability in financial management among other matters.

- Lot levies should be directly related to increased costs of services required for new developments; such costs, however, may go beyond the site of the specific subdivision.

Consent Dedications

Of the six briefs that commented, four agreed with the proposals (14.24, 14.25) that the Act should stipulate that development requirements can be imposed as a condition for granting a consent only on the property that is being separated. Furthermore, regulations should specify that development conditions can only be imposed on urban consents on the basis of formal planning policy statements that establish the situations in which conditions may be imposed and the specifications for such conditions. An additional comment was that "the Act should make it clear that the conditions are not meant to deal with matters of general municipal concern not directly related to the severance. As such, the conditions should be defined as those which are reasonably related to the need for facilities required or generated by the severance".

Application Fees

Opinions were split on the proposal (14.30) that the Minister should establish by regulation the maximum fees to be charged for processing all development applications and, until such regulations are established, an applicant may appeal the fees charged to the Minister. Those that disagreed frequently cited as their reasons the need to recognize local variations and the interference with local autonomy. Several suggested the Province issue "guidelines" for fee structure rather than regulations. The following comments are representative of the points made:

- This is difficult as there is a range of staff competency and consultant charges among all municipalities besides the difference between urban and rural administration expertise and staff numbers. A council should request approval from

the Province on a maximum charge and upon proof of need, the Province could approve. No appeal to the OMB should be permitted — only ministerial appeal.

- We would prefer to see ranges established for fees involving the processing of development applications.

- We support the basis of these proposals, but it is difficult to set a maximum fee that would be fair and equitable for all parts of the Province. Processing costs vary. The Minister should establish guidelines setting out what costs may be included in the determination of a fee for a planning application and stipulating that any fees charged must relate fairly and reasonably to the processing of an application. There should be a right of appeal to the Minister for applicants who feel the fee structure is unreasonable or unfair.

- If municipalities are to be allowed the authority over all their planning instruments, it is suggested that they are sufficiently responsible to set their own fee schedules for applications for planning approvals with the understanding that such fees are directly related to costs incurred and could be subject to appeal. A single fee, set provincially, would be arbitrary and unresponsive to local needs.

- We are concerned that certain approvals such as zoning amendments, subdivisions, etc. may be turned back to the individual municipality yet the power for setting fees for these services would rest with the Municipal Board. This could potentially lead to a constant stream of appeals to the OMB for fee adjustments and could result in as much or more delay than there is presently. As well, the municipality must make application to the OMB to increase fees. After increases are granted, the applicant can again appeal them.

- The board of education should be exempt from paying for building permits for any school building.

Consent and Variance applications

A substantial majority (over 80 per cent) of the submissions heartily endorsed the proposals (14.31, 14.32) that the present maximum fee of $50 for consent and variance applications be deleted from the Act. As an interim measure, until a comprehensive fee schedule is established, the Minister should prescribe by regulation a maximum fee of $100 for such applications. Those who disagreed felt that the existing fee should be retained; municipalities should set their own fee; or a fee of $220 should be charged until further study justifies otherwise. Other suggestions on the issue were:

- Such fees should not fall within the provincial interest; municipalities should be given the authority to levy such fees as is the case for land division committees.

- The Minister should set a fee schedule related to the extent of municipal effort involved in determining consent and variance applications, rather than a $100 maximum fee.

- The proposed increase could create a hardship for some ratepayers.

12 COMPENSATION AND RESERVATION OF LAND FOR PUBLIC USE

Most submissions discussing this chapter dealt with specific issues, particularly the duration period for reserving land for public purposes and the calculation of the price of land to be conveyed. Several briefs, however, endorsed the chapter as a whole.

Other general comments on the proposals were:

- The Review proposes to replace the existing system with one of questionable value. While the existing system is not perfect, it has in the past provided this board with a majority of its school sites at cost substantially below market value.
- With all its problems and idiosyncracies, the present system has worked. While the proposed system may provide sites at below market value, its major drawback is the three-year time limit.
- In the new Planning Act, care should be taken in defining "public use" or "public purposes" to ensure that municipal planners and councils are not permitted to exclude publicly supported schools operated by publicly elected trustees from such categories.

Downzoning Without Compensation

A number of briefs endorsed the suggestion (15.5) that the present powers of municipalities to impose controls on the use of private property, including downzoning, without being liable for compensation, should remain in effect. Those who disagreed felt either that municipalities should not be able to downzone without expropriating and thereby paying compensation, or that the matter should be studied further. The following comments were submitted on this issue (both from development interests):

- If expropriation of development rights is a temporary matter until further studies are done, temporary compensation should be paid in the form of an equivalent to a percentage of an economic rent for the property.

- One of the objectives of the recommendations in the Report is to reduce uncertainty in the planning process. Uncertainty will remain a commonplace feature of the process if municipalities are allowed to downzone under the guise of preserving questionable historical or architecturally significant features.... It is incumbent on the government that owners' rights not only be recognized but sustained. We therefore recommend that downzoning not be allowed. In the event this recommendation is not accepted, then downzoning proposals should be subject to scrutiny by the OMB. Moreover, adequate compensation must be paid for lost value whenever it is allowed.

The Report further proposed (15.15) that farmers should not receive compensation for not being able to sell or develop their land for other than farm purposes. Two briefs agreed and another was opposed because it was felt the paragraphs were "a proposal to put a stop to farm-related consents" .

Acquisition of Development Rights

There was almost unanimous support for the proposal (15.11) that municipalities should have the power to purchase the development rights of properties with unique architectural, historic or natural environment significance. This power should be given to all municipalities that have adopted a formal planning statement setting out their objectives and the criteria and specifications to be used to designate particular properties and to acquire their development rights. A few briefs felt the proposal required further investigation; need for such powers should be proved more conclusively before use of development rights is instituted. Other comments on the subject were:

- A conservation authority should not be required to purchase development rights on lands regulated by an authority.

- We strongly support the principle underlying this proposal but we feel the method suggested would be insufficient in certain situations. Accordingly, we recommend that municipalities should also have the power to forbid the development of land with unique environmental characteristics, and the

destruction of buildings of historic and architectural significance, subject to a strict system of designation and a fair system of compensation in cases of hardship. Municipalities should also be encouraged to make more extensive use of incentives such as bonuses, tax relief and public contributions to the cost of maintenance.

- Four recommendations for school boards should be considered in the revision of the Act:

  1. The appropriate government body should clarify which ministries, boards or acts have authorities or rights over others in relationship to historic, architectural or natural environmental significance.
  2. School boards should not be obligated to be financially responsible for the retention of buildings or properties that are designated heritage, architectural or natural environmental.
  3. When a site is under consideration for purchase by a school board that is designated heritage, architectural or natural environmental, the municipal authorities must so advise the board.
  4. School boards shall, after due consideration, have the right to determine the action to be taken with properties under their jurisdiction.

Reservation of Land for Public Purposes

The Report proposes (15.18, 15.19) that municipalities should have the authority to reserve sites for future public purposes by zoning properly identified private lands for public uses for a maximum period of three years, conditional on the adoption of a formal planning statement outlining the criteria to be used in identifying sites for various kinds of public use and the acquisition programs for these sites. The zoning should provide an alternative private use that would automatically come into force at the end of the three-year period, or earlier if it is decided not to acquire the property. It should be mandatory that both the proposed public use and the alternative private use be posted publicly on the site.

There was little quarrel with the notion of municipalities zoning private land for future public purposes. However, 48 out of 49 school boards, plus a few municipalities, did not accept the proposed three-year period as being adequate for their purposes. Suggestions for time limits varied from unrestricted to seven years, but several mentioned five years as being more appropriate. The following comments from boards of education are representative of the views expressed:

- The proposal is unrelated to the registration of a plan of subdivision, the actual development of lands, the need to provide pupil accommodation or the ability of the school authority and the Ministry of Education to provide funds for the acquisition. If adopted, a school board or the Ministry would be placed in the position of having to acquire and finance a site during the three-year period even though no residential development had occurred and the need for the site was some years in the future.

- The time period of three years would not be adequate, as:

  1. Construction sometimes does not even start for three years.
  2. Some development registrations are phased and the time from the initial registration to completion of all houses can take ten years.
  3. It is found that the subdivision does not reach its normal level of elementary pupil output for three to four years after the housing is occupied.

  Therefore, our current practice of obtaining a seven-year option from the date of registration would be preferred.

- The time of purchase of a site in relation to the need for a school building should be left to the individual board and the Ministry of Education.

Other comments on the proposal were:

- Churches should be specifically included as a "public use" for temporary zoning purposes.

- There is no need to single out land for public use in the regulations if interim control by-laws are adopted.

- Municipalities should not have the right to reserve sites by any other means than option and purchase or perhaps lease.

- When identifying land for possible or proposed future public purchase, it is imperative that the contingency zoning be placed at the same time. If the public purchase is not carried out, then development of those lands shall be allowed to proceed in compliance with such contingency zoning, without being the subject of further public discussion.

- The intent of this proposal is unclear. In many instances it is not possible to determine the location of a future public use until development decisions are known and formalized. In other situations it may not be practical to acquire land within the three-year period if it is not required for many years hence. It would appear that a municipality could find itself in the position of being forced into acquiring many parcels of land or having to forfeit the public use zoning. The result of this would not benefit any party since the land would ultimately be required.

- It is not appropriate to require the signing of sites with the proposed public and permitted private use. Publicizing alternate uses can lead to unnecessary controversy that would benefit none of the "involved" parties.

Price of Land to be Conveyed

There was strong disagreement, primarily from school boards, with the proposal (15.22) that The Planning Act should stipulate that the price of land to be conveyed for public purposes is to be based on its value immediately prior to the date the zoning by-law is enacted or the subdivision plan is given draft approval. The position of school boards generally was:

- This proposal would mean a substantial increase in the cost to obtain school sites and would be an unnecessary burden on taxpayers. As the developer is in the business of selling housing and as schools are just another essential service required by residents, we believe the principle of simply covering the developers direct costs on the site is fair and equitable.
- The method of determining the selling price of a school site should be in the hands of the vendor and the purchaser unless arbitration is necessary to resolve a dispute.
- The proposal should not preclude existing arrangements whereby sites are acquired on the basis of the cost of the land to the developer plus carrying charges to date and the costs of services across the frontage of the site. This latter arrangement has evolved over the years based on the principle that a school is an essential service and necessary to the successful marketing of residential dwellings.

Other suggestions from development interest groups and municipalities were that value should be determined on the basis of post draft approval, market value at registration, when building permits are issued, at the time of subdivision agreement and current market value for fully serviced land.

Calculation of Cash in Lieu

There were few comments on the proposal (15.25) that when a municipality is securing cash payments in lieu of park dedication in a subdivision, the Act should stipulate that the payments are to be

based on the value of the subdivision lands immediately after the date of draft plan approval. Two out of three briefs agreed with the proposal. The only suggestion was that cash in lieu and the price of land conveyed should be calculated on the same basis.

13 PLANNING IN NORTHERN ONTARIO

Although some briefs fully endorsed the proposals for planning in Northern Ontario, there were several criticisms of the approach taken. In general, it was claimed that the recommendations represented a traditional attitude to the North which seriously underestimated the planning complexities. Further criticisms of the proposals included the following:

- The proposals do not represent a realistic view of the future.
- The mandate of the Committee limited the scope of the inquiry with regard to Northern Ontario; what seems to be required is a full review of municipal structures in Northern Ontario.
- The Report throughout stresses local accountability for planning decisions except the proposals for planning in the North. It would appear that the Committee made its proposals for Northern Ontario in a hurry with a limited amount of information and lack of understanding of the North.

General suggestions regarding planning in the North included the following:

- A rationalization between the responsibilities of the Ministries of Natural Resources, Housing and Northern Affairs must be completed prior to discussing planning in Northern Ontario.
- We urge the Province to recognize the different approach for the sparsely populated areas of Northern Ontario where special arrangements should be made for adequate provision of planning services of towns, townships and unorganized areas, either through the regional government approach or formation of a new municipal unit.
- Within the final planning body in Northern Ontario, as in Southern Ontario, there should be equal representation from the Ministries, municipal bodies and citizens responsible for the health, social, economic and environmental welfare of the native and white people.

- Most northern municipalities would like to handle planning themselves but are unable to do so because of financial conditions and the lack of staff. CPAB provide a useful and valuable service but are not available full time. We tentatively support the proposal regarding Planning Advisory Committees, but they should be considered for organized as well as unorganized areas.

- It may be necessary to consider Northern Ontario or parts of it under the Planning and Development Act in much the same way as the Parkway Belt and Niagara Escarpment.

- The local roads board should carefully supervise the construction of a road in unorganized territory that gives access to a plan of subdivision.

- We are concerned about the unorganized area in a school division because it is possible to have a subdivision for trailer parks approved without the board having the opportunity of any prior notice or opportunity to advise any government authority as to the board's reaction to such new development with regard to any effect on school transportation or population.

- The Northern Ontario Chapter of CIP recommends that:

  1. The Province accept full responsibility for planning in unorganized territories.
  2. The Province institute municipal organization in unorganized areas that are within the influence of a municipality.
  3. Delegation of planning responsibility to non-elected bodies is unacceptable but the Minister may establish non-elected advisory committees to assist the Minister in administering his responsibility.
  4. The Province set up an independent task force to examine planning and plan implementation in unorganized areas...

Designation of Permanent Settlement Areas

In dealing with unincorporated settlements, the Report distinguishes between permanent settlement areas and Crown resource areas and proposes different controls for each type of settlement. As a first step, the Report proposes (16.6 to 16.8) that there should be formal designation of permanent settlement areas by the Ministries concerned (Ministry of Natural Resources, Treasury and Ministry of Housing) and blanket control over development in the North through either Minister's zoning orders or Section 17 orders under The Public Lands Act.

Of the very few comments on these proposals, it was suggested that, where settlements are being placed under such orders, the Ministries should publicly announce their intentions "together with all specific reasons for the proposed action and subsequently hold public hearings ... to determine if any suitable alternative course of action exists". Further, the terms of application of the orders should be limited to three years. "It should be mandatory for the Minister to hold public hearings and show cause in order to extend the term of an application for each additional period of three years". (The Report does propose a basis for lifting Minister's Orders.)

Resource Areas

For resource areas, the Report proposes (16.9) that the Minister of Natural Resources should continue to administer development control through Section 17 orders and development permits. These orders should be improved by providing appeal procedures and stronger enforcement provisions. Two briefs agreed with these provisions and a third suggested that MNR's strategic land use plans should include private property; also "it should be a requirement that a building permit be secured from the Ministry in any area not issuing a permit of its own. This will facilitate more rapid assessment records".

Organizational Structure: Permanent Settlement Areas

Views were split on the proposals (16.10 to 16.14) that a Planning Advisory Committee consisting of local residents should be appointed (and ultimately elected) to prepare local planning guidelines for each settlement area within a specififed time period (say 18 months). On adoption of the planning guidelines by the local committee and approval by the Minister, the Minister should establish a new statutory development control order which authorizes the local committee to grant development control permits similar to the Section 17 permits used in resource areas. There should be provision for appeal to the OMB on the same basis as other appeals under the Act. On the election of planning committees, they should be given the power to grant consents that is now available to elected district land division committees under the Act.

Among those supporting the proposals was the Small Communities Association. Comments on the proposals indicated divergent views on the feasibility of an elected planning body and on the development control orders. These opinions are as follows:

- Appointing or electing local residents in each permanent settlement area to create "suitable planning guidelines" and to administer the development control process is easier said than done.

- It is imperative that a planning committee be a truly local body, with membership elected from the area being planned. Aopointed persons are no good; the proposal admits the possibility of a loose interpretation of the word "local".

- The proposed development permit system would not be as effective as a strengthened Section 17.

There were no comments on the proposals for development control mechanisms in unorganized fringe areas.

14 OTHER PROVINCIAL LEGISLATION

Most submissions dealt with specific proposals in the chapter, especially the Environmental Assessment Act and Pits and Quarries legislation; some, however, indicated general concerns about conflicts between different acts and a desire that the various acts operate in a coherent fashion. The following comments are reflective of the opinions expressed:

- The Province should undertake a review of the inter-relationships, possible conflicts and overlapping in the planning process apparent in various provincial acts.

- There are presently several pieces of legislation which deal with planning matters, the Environmental Assessment Act being the most prominent. We recommend that planning-related legislation be under one act.

- Legislation to form a heritage conservation area under the Heritage Act should be studied so that it can come about without undue red tape under The Planning Act.

- In considering other provincial legislation, the Conservation Authorities Act was not taken into account and the implications of the Planning Act changes on floodplain and fill-line mapping were not included in the recommendations.

- The proposals in the White Paper should be coordinated with Housing's and Natural Resource's recommendations on "Floodplain Management Alternatives in Ontario".

Pits and Quarries

A few briefs commented on the Report's conclusions that there is a provincial interest in aggregate supplies; that this interest can be most effectively secured by assigning the authority to upper-tier governments, and that extraction areas should be permitted to remain under local zoning control, on the assumption that the Province or upper-tier authority would have the right to veto or object to (as appropriate) local zoning decisions that conflict with stated interests. One brief agreed with all of the above and another

disagreed with the potential assignment of provincial authority to the regional/county level. Further suggestions were in conjunction with proposed amendments to The Planning Act. These were:

- In order to avoid duplication of control, The Planning Act should be amended to provide that where the new Aggregate Resources Management Act is in effect in regions and counties with approved official plans incorporating designated mineral aggregate extraction areas with supporting policies, local zoning by-laws cease to apply to the control and location of pits and quarries.

- The Planning Act be amended to define the making of a pit or a quarry as a use of land within the meaning of Section 35(1)(1) of The Planning Act.

  If making or establishment of pits and quarries is defined as a use of land, then Section 35(1)(6) be repealed since it would then be redundant.

  Section 35(2) of The Planning Act be amended to remove municipal power to prohibit pits and quarries in regions and counties with approved official plans incorporating designated mineral extraction areas with supporting policies, and to remove any municipal power to regulate pits and quarries in any municipality of the Province coming under the jurisdiction of the new Aggregate Resources Management Act.

Environmental Assessment Act

The proposals on the Environmental Assessment Act dealt with the definition of "environment" and with means of eliminating duplicate harings and approvals that stem from the lack of coherence between the Environmental Assessment Act and The Planning Act.

There was complete endorsement from the few briefs that commented on the proposal (17.26) that the definition of environment in the Environmental Assessment Act should be restricted to "natural environment".

Regarding the duplicate hearings and approvals, the Report suggests that developments of provincial significance should be subjected to provincial environmental assessment procedures, but "private sector undertakings" that are only of local/regional importance should be dealt with through normal planning assessment. The Report makes two proposals in this regard.

There were no comments on the first suggestion (17.32) that the Environmental Assessment Act should be modified so that those private sector undertakings covered by the Act are determined by specifications stipulated in the Act. This is probably because this alternative was not included in the Summary Proposals.

A large number of briefs, however, discussed and agreed (over two/thirds) with the second alternative (17.33, 6.27) that environmental assessment should be merged to the greatest extent feasible with municipal planning assessment, and such assessment of private undertakings should be assigned to municipalities that have acceptable planning policies regarding the natural environment. Those who disagreed were primarily concerned about local abilities and financial resources to assume the recommended responsibilities. Small municipalities, in particular, felt the task would be too onerous. There were several suggestions from this group to retain the function at the provincial level which it was felt had the expertise and objectivity to better conduct the assessments.

A few briefs, all from upper-tier municipalities, suggested that environmental assessment should only be assigned to that level.

Other comments on the issue were as follows:

- The Development Institutes have been assured by the Minister of Environment that all land development including subdivisions will be exempt from the regulations of the Environmental Assessment Act. The government should ensure that municipalities do not attempt to impose the regulations of the Environmental Assessment Act on private developments by imposing policies covering environmental impact statements in official plans or policy statements.

  Regulations under the Environmental Protection Act only should specify what projects are subject to the process of environmental impact assessment and hearings before the Environmental Hearing Board. The Planning Act should be amended to state clearly that the process of environmental impact assessment with regard to new land development as specified in the Environmental Assessment Act is clearly beyond the authority of municipal councils.

- Comprehensive development review under Section 35a would remove the necessity for a parallel environmental assessment review. If this power is not forthcoming the Environmental Assessment Act should be implemented and then insure overlap with The Planning Act is limited.

- Environmental assessment is already part of the planning evaluation process and should not be required as a separate exercise (paragraph 6.28) unless the project is exceptional.

Other Acts

The two briefs that commented endorsed the suggestion (17.42) that the Ontario Energy Board be required to consult with every affected municipality concerning its planning requirements with respect to the proposed pipeline before making a decision on the application.

APPENDIX 1

proposed improvements to the act

Few briefs discussed this section of the Report. Several, however, endorsed the improvements as a whole. The response indicated below represents the majority position, where such exists.

No.	*Section/Submission*	*Recommended Action*	Response to PARC Recommendation
1	1(d). Delete school boards from the definition of "local boards".	The submission should not be acted on. The effect of the amendment would be to eliminate the requirement that public works undertaken by school boards conform to the official plan. Their undertakings are important to municipal planning and should conform to the official plan.	Agreed
2	1(j). Clarify the meaning of "other undertaking" in the definition of "public work".	This submission should be acted on. Under section 19(1), no public work may be undertaken for any purpose that does not conform with the official plan. Section 1(j) defines "public work" to be "any improvement of a structural nature or other undertaking that is within the jurisdiction of the council or local board." The meaning and significance of the words "or other undertaking" is not clear. Undertakings do not appear to be expressly limited to those of a structural nature. Only improvements or undertakings of a structural nature should be included in the definition of "public work" for the purpose of the Act.	Agreed
3	2(8). Require the Minister to consult with the appropriate municipalities before dissolving or altering the boundaries of a planning area.	This submission should be acted on. As a matter of practice the Minister does consult before acting under this subsection. As a matter of principle he should be required to do so by the legislation.	Agreed
4	4, general. Require that non-elected members of a planning board or committee have planning training (a community college or university course).	This submission should not be acted on. Council should be free to choose whoever it wishes to serve as members of planning board. See also Chapter 5.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
5	4, general. Provide for agricultural representation on all planning bodies dealing with the removal of prime agricultural land from production.	This submission should not be acted on. See the preceding submission.	Agreed
6	4, general. Require that a school board representative be appointed to the planning board to ensure school board's concerns are communicated fully to the board.	This submission should not be acted on. See preceding submission.	School boards disagreed.
7	4, general. Require the keeping of minutes and records by planning boards.	The Act should be amended to require a planning board to keep minutes and records of its proceedings.	Agreed
8	4(4). Provide for appointment of council members to planning board for the full two years of the council term.	Appointment of members of council to planning boards should be treated on the same basis in the legislation as appointment of members of council to committees of council. Therefore, sections 4(4) and (5) should be amended to delete the word "annually". There should be substituted in section 4(4) the provision that members of council may not be appointed for a term of office exceeding the term of the council that has appointed them. See also Chapter 5.	Agreed
9	4(10). Provide a planning board with the alternative of appointing a secretary *and* a treasurer.	The Act should be amended to provide this flexibility.	Agreed
10	7(1). Amend this section by including reference to local and regional councils which perform the duties of planning boards.	This submission should be acted on. The subsection provides that it is not an offence to disclose the information referred to in section 78 of *The Assessment Act* to a member or employee of a planning board who declares that such information is required in the course of his duties. Where there are no planning boards, as is the case with the regional municipalities, section 7(1) should permit employees and members of the particular council to obtain information on the same basis as members and employees of planning boards.	Agreed
11	7(2). Amend this subsection to clarify the type and manner of presentation of information obtained pursuant to subsection (1), which are issued to the public in planning documents.	This submission raises a broad question of policy in respect to the confidentiality of assessment information. It is beyond the terms of reference of the Committee and should be examined further by the Ministries of Housing and Revenue.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
12	**12 to 17, general.** Clearly define those planning board functions which are to be carried out in public and those which may be carried out in private.	This submission should be acted on. Currently *The Municipal Act* requires municipal councils and local boards, other than boards of police commission and school boards, to meet in public. Committees, including committees of the whole of municipal councils and likely of local boards, may meet in private. For clarity of understanding, *The Planning Act* should spell out the governing rules in respect of the holding of private meetings. It should authorize planning board committees, including committees of the whole, to meet in private provided that such meetings are in accordance with rules of procedure adopted by the board and approved by the relevant municipal council. All meetings of planning boards as such should continue to be required to be conducted in public. See also Chapter 5.	Suggestion that the Act should merely state that council shall determine the rules of procedure.
13	**12(1)(c).** Require that a planning board consult only with those local boards which in the opinion of planning board are affected by the planning issues and policies it proposes to consider.	This submission should be acted on. It is not presently clear whether the Act requires planning boards to consult with all local boards in preparing official plans or amendments thereto, whether or not such local boards are likely to be affected. The Act should be amended to make it clear that a planning board must consult only with those boards that it considers may be affected by the matters under consideration.	No consensus: suggestions that the Act not be amended and that all local boards are affected.
14	**17(1).** Amend to provide for notice to be given to affected persons of modifications which the Minister proposes to make to an official plan before him for his approval.	This submission should be acted on. If the concept of the statutory official plan is retained and a modification is proposed, the modification should be advertised in accordance with rules established by regulations made under the Act. If a request for referral to the Ontario Municipal Board is not received within say 14 days of the advertisement, the Minister should be free to modify the plan accordingly. If a request for referral is received, the Act should require that it be treated in the same way as a request for the reference of the official plan itself to the Ontario Municipal Board.	Agreed: suggestion that 14 days should be extended to 30.
15	**17(3).** The period following which a right of appeal may be made from a council's refusal or neglect to make a decision on an application to amend an official plan, should be extended from 30 days to 60 days.	This submission should be acted upon, but the period should be extended to only 45 days. It often is not possible for a municipality to complete its evaluation of an application within 30 days. 45 days is a reasonable period of time having regard for the interests of the municipality, the applicant and affected members of the public. See also Submission 70.	No consensus: 45 days considered insufficient; 60-90 days suggested.
16	**17(4).** Amend the Act to require the Ontario Municipal Board to hear an appeal under this subsection within 90 days.	It would be inappropriate to establish a time limit in the Act. Variety and circumstances from case to case make a fixed time period inappropriate.	Disagreed: 90 days considered reasonable.

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
17	19(2). Require that the Minister *shall* require a report from the planning board when an amendment or appeal of an official plan is initiated by a council.	The submission should not be acted upon. The Minister should be free to consult any person he desires. The language of the section gives the Minister this discretion. It is appropriate and should be retained.	Agreed
18	21(1). Add that, as a condition of a sale, lease or disposal of land by a municipality, "public notice is given of such sale, lease or disposal".	This submission should not be acted on. There is no compelling need which would be met by requiring additional public notification. The public should have been notified when the official plan policy pursuant to which the land was acquired was before the planning board.	Disagreed
19	22, 23, 24, general. The word 'redevelopment' should be replaced by the term 'community improvement', which should be defined to include 'redevelopment'.	The submission should be acted on. Despite the present definition of 'redevelopment' in section 22(1)(a), in practice it has been often taken to suggest that demolition is contemplated and will take place. Notwithstanding that the submitted change in terminology is only semantic, it would serve to better express the purpose of section 22.	Agreed
20	22, general. Amend to except from the definition of 'redevelopment' and thus from section 22, the planning, conservation, rehabilitation and improvement of a residential neighbourhood pursuant to the neighbourhood improvement provisions of *The National Housing Act*.	This submission should not be acted on. The same considerations that apply to redevelopment plans generally apply to the neighbourhood improvement program, which should continue to be undertaken pursuant to section 22.	Disagreed: original submission endorsed.
21	22(2). Eliminate the requirement of first designating a redevelopment area before a municipal council may proceed under section 22.	This submission should not be acted on. Ministerial approval of a redevelopment area should take place at the outset of the redevelopment planning process, and prior to land acquisitions which take place in advance of the adoption and approval of the redevelopment plan.	Disagreed: original submission endorsed.
22	22(2). Introduce a requirement that municipalities hold public hearings prior to enacting a by-law designating a redevelopment area.	This submission should be acted on. Since a redevelopment area designation by-law which is approved by the Minister allows a municipality to acquire land, the reasons for the designation of the redevelopment area should be brought to the attention of affected persons. They should have the right to be heard before the designation is made.	Agreed
23	22(3). Delete the requirement that after a redevelopment plan has been approved the Minister approve land acquisitions, the holding of land and its preparation for redevelopment.	This submission should be acted on. The redevelopment plan should contain policies in respect of land acquisitions, etc. It must be approved by the Minister. This approval requirement should suffice to permit the provincial interest to be protected. The proposed amendment would improve efficiency without producing any unacceptable cost.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
24	22(5) & (7). Amend to authorize the Minister on his own initiative, or on receipt of a request that he does not consider to be made in bad faith, frivolously, or only for the purpose of delay, to refer the whole or part of a redevelopment plan to the Ontario Municipal Board for hearing and report to him.	The submission should be acted on. The Minister should have the power to refer a valid objection which is lodged with him to the Ontario Municipal Board for a hearing and a report prior to making the final decision.	Agreed
25	22(6). Amend to provide that a neighbourhood improvement program proposal cannot be rejected by the Minister after a municipality has amended its official plan to accommodate the particular proposal.	The submission should not be acted on. As a matter of principle neighbourhood improvement program proposals should be treated no differently than land use regulations. Approval of an official plan does not operate as an irrevocable forward commitment to enact and approve specific land use regulations and should not operate in this way with respect to specific improvement proposals.	Agreed
26	22(8). Powers of a council under this subsection should be expanded to include the redevelopment of privately owned lands by the municipality.	No action should be taken on this submission. Redevelopment of private lands by a municipality is inconsistent with the concept of private ownership. Municipalities should continue to be restricted to developing land they own or in which they have a property interest.	No consensus: further clarification requested of use intended in submission.
27	22(8). Amend to delete the requirement of the Minister's approval for a council to improve land or to sell or lease buildings in a redevelopment area, in accordance with the redevelopment plan.	This submission should be acted on. The actions by the municipality which are outlined in the section will be for purposes set out in the redevelopment plan which has been approved by the Minister. It is unnecessary for him also to approve actions to implement the policies contained in the plan.	Agreed
28	22(9). Amend to delete the requirement of the approval of the Minister to short term leasing of land or buildings for any purpose in a redevelopment area pending development of the redevelopment plan.	The submission should be acted on. The subsection limits such leases to terms not exceeding 3 years at any one time. There is no significant risk that policy alternatives that might be selected in the redevelopment plan will be pre-empted by the making of such leases. The Minister's approval of the redevelopment plan itself is sufficient to protect the provincial interest in this regard.	Agreed
29	23. Expand to permit municipalities to enter into agreements with other levels of government for carrying out detailed studies for neighbourhood improvement program plans, for implementing neighbourhood improvement program plans and administering the residential rehabilitation assistance program.	The submission should be acted on. At present section 23 appears to authorize municipalities with the approval of the Minister to make intergovernmental agreements only for the purposes of carrying out studies relating to physical conditions. This is unnecessarily restrictive.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
30	29, general. The status of judge's plans etc. prepared under *The Registry Act* and *The Land Titles Act* should be clarified.	This submission should be acted on. While the regulations under *The Registry Act* provide that judge's plans, among others, are to contain a caution that they are not plans of subdivision within the meaning of sections 29, 32 or 33 of *The Planning Act*, neither *The Registry Act* nor *The Planning Act* makes the point clear. Although the Supreme Court of Ontario has decided that a compiled plan is not a registered plan of subdivision within the meaning of *The Planning Act*, a different decision might be reached in respect of a judge's plan. There is a comparable problem under *The Land Titles Act*. That judge's plans etc. are not registered plans of subdivision within the meaning of section 29(2) of *The Planning Act* should be provided in the legislation.	Agreed
31	29, general. Provide that conveyances which offend the Act and would be invalid otherwise are not invalid where a purchaser has taken reasonable steps to discover whether the vendor retains a prohibited interest in adjoining lands.	The submission should be acted on. Currently a statutory declaration establishing that the person making the conveyance or other transaction referred to in section 29(2) does not retain the fee or equity of redemption, etc., in abutting land, is required to be attached to the instrument for which registration is sought under *The Land Titles Act* and *The Registry Act*. Notwithstanding that a bona fide purchaser, has relied on it in completing the particular transaction, if the statutory declaration is perjurious, he will not obtain an indefeasible title to the land. A bona fide purchaser could be protected in respect of his title in such circumstances without significant problems being caused, as far as the municipal planning system is concerned. In addition certainty of title would be promoted. If the proposed amendment is enacted it should be made retrospective so as to apply to all transactions where the registered deed, transfer, mortgage, charge, etc. has appended to it a statutory declaration in the terms set out above.	No consensus: fear of abuse.
32	29(1a). Clarify the meaning of "abuts such land on a horizontal plane only".	The meaning of the sub-section is unclear. It should be re-written to apply exclusively to sub-surface mineral rights where surface rights are not transferred.	No consensus; no reason for prohibi ing conveyance of rights over proper
33	29(2). Expand the list of transactions referred to in this sub-section by adding devises contained in wills, so as to require subdivision approval before they take effect.	This submission should not be acted on. A devise of land is not a prohibited transaction as defined in section 29(2) and therefore does not require subdivision approval. Public policy is that a testator is free, generally speaking, to dispose of his assets to whomever he wishes. In most situations, devises are neutral when measured against the objectives of the subdivision approval system. To apply subdivision control to devises generally and, thus, interfere with the freedom of disposition of testators, is not justified.	No consensus

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
34	29(2)(b) and 29(4)(a). Amend these paragraphs to exclude from the exemption those transactions where the person making the agreement retains a leasehold interest in abutting land.	This submission should be acted on. It is not clear whether the transactions referred to in the submission are or are not exempt from subdivision control. Evaluated against the objectives of the subdivision approval system, they should not be exempted.	No consensus
35	29(2)(b) and 29(4)(a). Clarify the case where the bed of a river or stream is vested in the Crown under *The Beds of Navigable Waters Act*.	This submission should not be acted on. Where the bed of a river is vested in the Crown and one person owns the fee or the equity of redemption, etc., in land on both banks of the river, his position and the community's is identical to that where the parcels of land in single ownership are separated by a public highway, street or lane. Such parcels do not abut. Disposal of either parcel in its entirety is neutral when evaluated against the objectives of the subdivision approval system.	Agreed
36	29(2)(c). Exempt school boards from the need to obtain a consent when buying or selling land.	This submission should not be acted on. If the submission is accepted municipal planning interests protected by the subdivision approval system could be adversely affected. The municipality has a legitimate planning interest in the appropriateness of the location for a school site being acquired outside of a plan of subdivision. The same is the case where the whole or part of a school site shown on a registered plan of subdivision is to be disposed of by a school board. The municipal planning interests in these situations are best protected through the subdivision approval system.	School boards disagreed.
37	29(2)(c) and 29(4)(b). Clarify whether or not federal and provincial crown corporations fall within this clause.	This submission should be acted on. Provincial legislation cannot affect Her Majesty in Right of Canada or an agency of Her Majesty. Further, since *The Planning Act* is not expressed to bind either Her Majesty in Right of Ontario or a Crown agency as defined in *The Crown Agency Act*, as a matter of law it does not bind Her Majesty in Right of Ontario. Sections 29(2)(c) and 29(4)(b), insofar as the reference to Her Majesty in Right of Canada and Ontario, are declarations of the constitution and the law. The meaning would be made clearer if these clauses expressly referred to Crown agencies as defined in *The Crown Agency Act*.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
38	29(2)(d). Exempt transactions by which land, or any use of right in land, is acquired for the construction of electricity transmission lines by Ontario Hydro.	This submission should be acted on. The paragraph now exempts transactions where land etc. is acquired for the construction of a transmission line within the meaning of *The Ontario Energy Board Act*. A "transmission line" is defined by that Act to be a pipeline for the transmission of certain hydrocarbons but not lines for transmitting electricity. Evidently transmission lines are exempted on the theory that they are inter-municipal in significance. The same policy consideration applies to Ontario Hydro's electricity transmission lines and supports the submission.	Agreed
39	29(2)(e) and 29(4)(d). Provide that both the parcel severed by the consent and the remnant parcel retained by the grantor may be transferred etc. without any further consent.	This submission should be acted on. As a matter of principle, both the approval and registration of a plan of subdivision and the granting of a consent to a particular transaction should produce similar legal consequences. Future transactions in respect of the whole of a lot on the plan, and the whole of the severed and remnant parcels, should be exempted from any further subdivision approval requirement. This is not the case now where the parcels come into single ownership and subsequently the common owner wishes to dispose of them in two parcels, the boundaries of which coincide with the original severed and remnant parcels. This causes uncertainty and delay and occasions significant financial cost in land transactions. The Act should provide that on registration of the consented-to instrument and a reference plan identifying the severed and remnant parcels, both are to be considered as lots on a registered plan of subdivision for the purposes of subdivision control. Additionally, municipalities should have a designating power in respect of such lots which is analogous to their power respecting lots on a plan of subdivision that has been registered for eight years or more.	Agreed with qualification; should be studied further.
40	29(4). Amend the section to provide that where the land comprises the whole of one lot on a registered plan of subdivision and part of an adjoining lot or block on such a plan, a transaction with respect to either of them, in any sequence, may be completed without subdivision approval.	This submission should be acted on. As the judicial decisions now stand, if the whole lot is disposed of first, the transaction is outside part-lot control and subdivision approval is not required. The result is the opposite if the part of the lot or block is disposed of first. This result is anomalous and should be avoided by the enactment of an amendment to the section in the terms proposed.	No consensus

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
41	29(4). Part-lot control should apply to the lots within judge's plans etc. prepared pursuant to *The Registry Act* and *The Land Titles Act*. Such plans should be considered to be registered plans of subdivision for the purposes of section 29(4).	If universal part-lot control is retained, this submission should be acted on. It is doubtful whether a judge's plan as well as the other types of plans provided for in *The Land Titles Act* and *The Registry Act*, other than those prepared by the owner of the land, are registered plans of subdivision within the meaning of section 29(4) of *The Planning Act*. They should be deemed to be such for the purpose of part-lot control.	Agreed: concern about quality of judge's plan.
42	29(6). Amend the subsection so that consents lapse two years from the date of granting the consent rather than two years from the date of issuing the certificate.	The Act should be amended to make it clear that the time period should start to run on the date that the Ontario Municipal Board order or the decision of the committee of adjustment or land division committee is final and binding.	Agreed
43	29(7). Amend the subsection to make it clear that failure to include in a contract of sale, as an express condition, that the contract is to be effective only if the provisions of section 29 are complied with, does not render the contract illegal and void.	The Act should be amended to provide that failure to include a section 29(7) condition in a contract will have the consequence that it not be specifically enforceable. Further, damages for loss of the bargain should not be recoverable where subdivision approval has not been granted before the date set for completion of the contract, where both parties have otherwise performed their obligations under the contract.	Disagreed: further clarification requested.
44	29a, general. Permit a municipality to eliminate checkerboard lots, which were created before universal subdivision control, with the result that the ownership would revert to the original land owners.	This submission should not be acted on. Retrospective invalidation of titles is wrong in principle.	Agreed
45	29a, general. Amend to provide that simultaneous conveyances of abutting parcels of land created valid titles if made prior to the effective date of section 29(5a).	This submission should not be acted on. As interpreted by the Court, prior to the effective day of section 29(5a), section 29 did not prohibit simultaneous conveyances of abutting parcels of land to different persons. The same is true of the predecessor of section 29. The suggested amendment is redundant.	Agreed
46	29a(3). Restrict the scope of the municipality's discretion under this subsection by defining the word "appropriate".	The Act should be amended to provide that a municipality acting under section 29a should have no greater power than an approving authority to impose conditions on a consent or plan of subdivision.	No consensus: present provision considered adequate.
47	32(4). Delete the requirement that a Minister's order conform to the provisions of the official plan applying to the land affected by the order.	This submission should be acted on. The Minister should have power to make a section 32 order which in effect establishes an interim control. This may be impossible if there is in place an official plan which does not contemplate interim controls or which provides for uses of land considered by the Minister to be inappropriate at the time the section 32 order is made. See also Chapter 4 of the report.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
48	33, general. Provide that draft plans of subdivision will not be considered for approval where they require municipal capital expenditure not budgeted for within two years.	This submission should not be acted on. Section 33(4)(h) already provides for the adequacy of utilities and municipal services to be taken into account. The proposed amendment would introduce additional rigidity into the subdivision approval process. This is not justified. See also Chapter 12.	Agreed
49	33, general. Give municipalities power to approve small subdivisions (twelve lots or less) and define criteria for granting such approvals.	Chapter 4 proposes that municipalities should have authority to approve all plans of subdivision unless the Minister determines they should not be given such power in individual cases.	Agreed
50	33, general. Provide that a new plan of subdivision is required when a municipality deems a registered plan of subdivision not to be registered only for the purposes of section 29(2).	No action should be taken on this submission. Section 29(3) authorizes a municipality to designate plans of subdivision or parts thereof that have been registered for eight years or more which are deemed not to be registered plans of subdivision for the purposes of subsection 2 of section 29. For all other purposes the registered plan of subdivision remains registered and in effect. As a practical matter, whether or not a new plan of subdivision will be required to be submitted for planning approval as a condition precedent to further transactions taking place in respect of the land, depends on the amount of land within the plan that has not been disposed of. The proposed amendment is not appropriate.	Agreed
51	33, general. Introduce a staged system of registrations so that building lots can be brought on the market as services are financed and built.	No action should be taken on this submission. The staging of registration can best be handled through subdivision agreements. The legislation is now broad enough to authorize the making of such agreements.	Agreed
52	33(5). Require payment of lot levies prior to the execution of the subdivision agreement.	Persons should not be required to make payments until the agreements authorizing such payments have been concluded.	Agreed
53	33(5). Provide not only for conditions requiring public road dedications but also easements for municipal purposes.	The submission should be acted on. The subsection should be expanded to add easements for municipal purposes.	Agreed
54	33(5). Require the Minister to impose those particular conditions that he now has a discretionary power to impose.	The submission should not be acted on. See Chapter 12.	Agreed
55	33(5). Amend in order to ensure that the conclusion of a satisfactory financial arrangement for the purchase of school sites be a condition of draft plan approval or a requirement of an agreement.	The submission should not be acted on. See Chapter 12.	School boards disagreed.

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
56	33(6). Authorize school boards to enter into agreements as a condition of draft approval.	This submission should not be acted on. In Chapter 12 the Committee recommends that dedication or required sales of sites for school purposes should not be authorized as a condition of approval of a draft plan of subdivision.	School boards disagreed.
57	33(6). Provide that subdivision agreements may be cancelled by the municipality where the subdivider seriously fails to commence and continue construction of buildings within two years of the signing of the agreement.	This submission should not be acted on. It would significantly increase the discretionary powers of municipalities with respect to subdivisions, and could increase the costs of development without producing a commensurate benefit to the public.	Disagreed: municipalities should have authority to enforce staging.
58	33(8). Amend to permit municipalities to require cash in lieu to be paid prior to the execution of the subdivision agreement, without the approval of the Minister.	This submission should not be acted on. Levies and other cash payments should be the subject of an agreement prepared in accordance with ministerial regulation.	Agreed in part: disagreement with "prior"; prefer date of registration.
59	33(8). Amend the Act to authorize municipalities to secure cash payment in lieu of road widening dedications.	This submission should not be acted on. The Act authorizes municipalities to secure as a condition of subdivision approval the dedication of those road widenings the Minister considers necessary. The situation is not analogous to that of parkland, which can in certain circumstances be provided more appropriately outside the given subdivision plan, and for which payment in lieu of dedications are not necessary for the development of land being subdivided, they should not be required as a condition of subdivision approval, nor should their cash equivalent be secured. See also Chapter 12.	Agreed
60	34. This section should be repealed.	This submission should be acted on. The consequences of non-compliance with section 29(2) and (4) should be specified in section 29(7).	Agreed
61	35, general. Authorize employees of a municipality to enter into private property without the permission of the owner in order to determine if the provisions of the by-law are being violated.	This submission should not be acted on. The proposed power is an unwarranted infringement of private property rights.	Disagreed
62	35, general. Define "aggregate extraction" as a use of land for the purpose of section 35.	See Chapter 17.	No comment
63	35, general. Amend to describe by-laws passed under section 35 as "zoning by-laws".	This submission should be acted on. The term "zoning by-law" more accurately describes comprehensive by-laws enacted under this section than "restricted area" by-laws.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
64	35(7). Amend to authorize municipalities to establish amortization periods under which the right to continue a non-conforming use, building or structure will terminate.	This submission should be studied further. Vested rights should not be taken away unless the municipality has adequately established the particular public interest which will be satisfied in doing so, an equitable basis for establishing amortization rules, and suitable procedures for ensuring that the persons affected are treated fairly.	Agreed that furth study is advisabl
65	35(7). Encourage municipalities to take an inventory of uses to be made non-conforming by a zoning by-law.	It is desirable that prior to enacting a zoning by-law municipalities should establish an inventory of the properties to be made non-conforming by that by-law, particularly if amortization of non-conforming uses is to be considered. See also Submission 88.	Agreed
66	35(7). Provide that, after destruction of a non-conforming building or structure to a proportion of its value above grade, the building or structure may be rebuilt and used only in conformity with the zoning by-law.	This submission should be acted on. As the judicial decisions now stand it is not clear whether such a provision in a zoning by-law would be effective. It is a reasonable power for municipalities to have. The appropriate percentage of value to be used for this purpose should receive further study by the Ministry.	Agreed
67	35(7). Clarify whether or not a municipality has the jurisdiction to regulate non-conforming uses. At present, a violation of a legal non-conforming use could not be prevented by a restraining order (as can a violation of a conforming use) since prevention may be regarded as an application of the by-law, whereas this subsection provides that a zoning by-law cannot prevent a use which is legally non-conforming.	This submission should not be acted upon. Section 35 does not permit a municipality to either regulate or prohibit a non-conforming building, structure or use in a zoning by-law. As a matter of principle, a municipality should not have such a power. Municipalities should continue to have power to regulate non-conforming buildings under other provisions of *The Planning Act* and other legislation including *The Municipal Act.*	Agreed
68	35(12). Require the O.M.B. to hold a hearing within 30 or 60 days where an application is made for approval of a by-law.	It would be inappropriate to establish such a time limit in the Act for the same reasons as indicated in Submission 15.	No consensus
69	35(20). Authorize a municipality to enact a by-law without O.M.B. approval, to permit vehicle parking on vacant land for a limited time period, whether or not it conforms to the official plan.	This submission should not be acted upon. There is no persuasive reason to support the proposed distinction between temporary and permanent parking provisions in respect to the requirement of conformity to an official plan.	Disagreed
70	35(22). The period during which council refuses or neglects to make a decision on an application to amend a zoning by-law following which a right of appeal to the Ontario Municipal Board may be heard should be extended from one month to two months.	This submission should be acted upon, but the period should be extended to 45 days. Evaluation of an application by a municipality cannot always be completed within one month. The extension of the period to 45 days is reasonable having regard for the interests of the municipality, the applicant and the affected public. See also Submission 15.	Disagreed: 45 day considered insufficient.

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
71	35(7a) and (7b), general. Permit a municipality to pass a by-law establishing classes of non-conforming uses. An owner who enjoys a legal non-conforming use would be free to move as a matter of right from one use to another within a class, but not between classes.	This submission should be acted on to give flexibility and save the unnecessary expense of going to the committee.	Disagreed: would perpetuate non-conforming uses; contrary to intent of by-law.
72	35a, general. Authorize municipalities to delegate full decisional authority under this section to a committee of council.	This submission should be acted on. Decisions on development review largely execute council policy. A council should have flexibility to delegate these decisions to a committee. See also Chapter 5.	Agreed
73	35a, general. Provide that "development" includes making an addition to an existing building.	This submission should be acted on. The term "development" is not defined for the purposes of either section 35a or 35b. Clearly, the reasons which support the application of a by-law enacted under section 35a to new buildings apply equally to substantial additions to existing buildings.	Agreed
74	35a(2). Amend to authorize municipalities to require owners to maintain walkways open to those legally entitled to use them during stipulated periods of time each day.	This submission should be acted on. Where, for example, a walkway is in fact a pedestrian street open to members of the public generally the municipality should have clear authority to require the walkway to be kept open for stipulated periods of time each day.	Agreed
75	36, general. Authorize a property standards officer who is satisfied that a dwelling violates the standards imposed by a section 36 by-law in a manner that constitutes an urgent hazard to the health or safety of any person, to require that the violation be corrected immediately and to take whatever measures he considers to be necessary. There should be requirements for notice to owner and occupants and provision for subsequent confirmation, modification or rejection of the action by a property standards committee.	This submission should be acted on. Immediate corrective action where urgent hazards to health or safety are caused by violation of the standards imposed by a section 36 by-law, is not possible under the section as presently worded.	Agreed: suggestion to change "dwelling" to "property".
76	36(1)(f). Amend to incorporate reference to "maintenance". The clause would then read: "repair" includes the provision of such facilities, the making of additions or alterations, *the maintenance* or the taking of such action as may be required so that the property conforms *and is maintained* to the standards established in a by-law passed under this section.	This submission should not be acted on. The concepts of "repair" and "maintenance" are distinct. Subsection (3) authorizes municipalities to enact minimum standards of maintenance and occupancy by-laws, embodies both the concept of "repair" and the concept of "maintenance".	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
77	36(3). Add an extra paragraph (f) to read: "for appointing a property standards officer and persons acting under his authority, as required to enforce the by-law".	This submission should be acted on. The officer is appointed pursuant to the general powers of municipalities provided by *The Municipal Act*. Since officers exercise important enforcement powers, the section should provide for their appointment by by-law.	No consensus
78	36(10). Clarify to provide that the municipal clerk must cause the certificates to be registered in the proper registry and land titles offices, rather than personally register them himself.	This submission should be acted on. The subsection is open to the interpretation now that the clerk must register the certificate personally.	Agreed
79	36(12). Amend to permit not only school teachers but also all other employees of school boards to serve on property standards committees.	This submission should be acted on. There is no reason to distinguish between school teachers and other school board employees.	Agreed
80	36(21). Expand to provide that the costs of the work incurred by the municipality, may be a charge against the land and recoverable in the same manner as taxes.	This submission is reasonable and should be acted on.	Agreed
81	36(21). Amend by authorizing a municipality to direct the occupant of a dwelling unit or part of a property to pay his rent to the property standards officer to be deposited with the municipal treasurer, who shall apply the rent to reduce the amount owed to the municipality for repairing the property where the owner fails to comply with an order.	This submission should not be acted on. Where because of particular circumstances, a municipality can demonstrate to the Legislature that it requires this power it should be granted by private legislation. This extraordinary power should not be delegated by general legislation to all municipalities.	Agreed
82	36(22). Expand to enable the municipality to issue and charge for a certificate of compliance both to the owner and other persons who may apply for a certificate including the purchasers of particular property.	This submission should be acted on. Certificates of compliance should be available to other persons than the owner of the property. There should be authority to charge for certificates. The maximum fee should be fixed by regulation.	Disagreed: argument over fixing fee by regulation; certificate issued only to owner.
83	37(2). Amend to provide the provision that when a loan goes into default, the unpaid balance of the loan and the accrued interest can be added to the municipal taxes and collected as such.	This submission should be acted on. It would expand a municipality's power to recover loans and is supported by precedent.	Agreed
84	41, general. Amend section to provide that *The Statutory Powers Procedure Act, 1971* does not apply to committee proceedings.	This submission should not be acted on. There is no basis on which the practices and powers of a committee should be distinguished from other tribunals exercising a statutory power of decision.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
85	42, general. Require that all municipalities within the geographic area of a committee's jurisdiction file with the committee all planning documents (official plans, by-laws, etc.) in force.	This submission should be acted on. The Minister should have the power to make regulations requiring that municipalities lodge documents described in the regulations with the appropriate committees.	Agreed
86	42, general. Permit decision to be given by an alternative to "mail" as specified in 42(11) and (13).	This submission should be acted on for practical reasons.	Agreed
87	42(1). Authorize a committee to grant a minor variance when an outdated official plan exists, notwithstanding its intent and purpose are not maintained.	This submission should not be acted on. Since the official plan is the municipality's planning document, amendments to its policy should be made by council. An appointed committee should not have power to disregard the municipality's official plan when considering a minor variance from a zoning by-law.	No comment
88	42(2). Place the burden of establishing a use as legally non-conforming on the owner and require him to register his use within 3 months of the passing of the by-law. Disputes could be subject to appeal to the committee of adjustment.	The submission should not be acted on. It would place the onus for interpreting a zoning by-law on the owner, rather than the municipality. This is wrong in principle.	Agreed
89	42(2). Add a new subsection to read "where a zoning boundary does not exactly coincide or is in doubt and where, in the opinion of the committee, there is not sufficient reason to warrant an amendment to the by-law, the committee may adjust or establish the zoning boundary".	This submission should not be acted on. Definitions of lots and identification of zone or district boundaries should only be changed by decision of the municipal council. They are critical elements of zoning by-laws.	Agreed
90	42(2)(a). Reword this subsection to read "where any land, building or structure, on the day the by-law was passed was *lawfully* used. . ." so that it corresponds to the wording of 35(7)(a).	This submission should be acted on. The language of the subsection should parallel that of section 35(7)(a).	Agreed
91	42(2)(a)(i). Define what constitutes an "enlargement or extension" for the purposes of this subsection.	This submission should not be acted on. The only alternative to the use of the words in question would be to employ a quantitative qualification in the legislation. This would be arbitrary and inappropriate.	Agreed
92	42(3). Amend to limit the committee's power to grant consents to those situations where the committee is of the opinion that a plan of subdivision of the land described in the application is not necessary for the proper and orderly development of the adjacent area in which it is located rather than the municipality.	See Chapter 13.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
93	42(3). Require that the owner establish to the committee's satisfaction that the transactions for which the consent is sought will add to the proper and orderly development of the municipality.	This submission should not be acted on. The burden it would impose would be impossible to discharge in many circumstances. It would also broaden the discretion of the committee unduly.	Agreed
94	42(4). The committee should be required to give notice of an application in such manner and to such persons as are prescribed by the Minister in rules of procedure setting out all the affected persons to whom notice must be given.	This submission should be acted on. See Chapter 9.	Agreed
95	42(4). Extend the time limit within which a hearing on an application to a committee must be held to 60 days (but more preferably 80 days).	This submission should be acted on, but the subsection should be amended to increase the time limit for a hearing to 45 days. This will provide a tight but workable schedule for necessary circulations to be completed.	No consensus on time limit.
96	42(5). Notification of a consent application in rural areas should be required to be given to assessed owners of land within 2,000 feet.	See Chapter 9.	Disagree on radius of assessed owners.
97	42(5). Reword this subsection to read "the committee, before hearing an application, shall give notice *in accordance with regulations established by the Minister under section 45* and in such manner and for such reasons as the committee considers proper".	See Chapter 9.	No consensus
98	42(7). Add "pending submission or acquisition of additional evidence required by the committee, or to provide time for any conditions imposed to be met pursuant to subsection 29(12)" to the end of this subsection.	This submission should not be acted on. As presently worded the subsection is adequate.	Agreed
99	42(9). Require that committee decisions be reached in public.	This submission should not be acted on. Currently, the subsection provides for the Minister, the applicant and persons who appeared at the hearings and filed a request, to be sent a copy of the decision. The decision must set out the committee's reasons and be signed by the concurring members. These are sufficient safeguards.	No consensus
100	42(9). Provide that, in setting out the reasons for its decision, a committee shall summarize the evidence and arguments advanced by the applicant and any other parties, its findings of fact, and its opinion on the merits of the applications.	The submission should not be acted on. The committee must set out reasons for its decision. Many committees would find it useful to do what the submission proposes. However, it would be unnecessarily cumbersome to require this by statute in all cases.	Agreed

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
101	42(11). Provide that a copy of the decision be mailed or otherwise delivered to the clerk of the municipality in which the land is situated.	This submission should be acted on. Formal notification should be required because in many municipalities consents will be granted by land division committees which may hold hearings and have administrative offices outside the municipality in which the land is located.	Agreed
102	42(13). Define a "person" to include an unincorporated ratepayers association.	See Chapter 9.	No consensus: concern about representation of "person".
103	42(13a). Require the appellant to specify the reasons for appeal and authorize the Ontario Municipal Board to dismiss the appeal on a summary application where it considers that the notice of appeal does not disclose a reasonable basis for the appeal.	See Chapter 10.	Agreed
104	42(13a). Delete the requirement that the secretary-treasurer forward to the Ontario Municipal Board all papers and documents filed with the committee relating to the matter appealed.	This submission should not be acted on. The Board should be in possession of all relevant documents relating to the matter appealed in order that the hearing of an appeal may be conducted satisfactorily and expeditiously. See Chapter 10.	No consensus: appellant should forward some material as part of responsibility of launching an appeal.
105	42(14). Provide that the secretary-treasurer, when he is also an employee of the municipality, not be required to file a certified copy of a decision with the clerk of the municipality.	This submission should not be acted on. Copies of the decisions should be lodged with the municipal clerk so that they are freely available for public inspection.	Agreed
106	42(18). Require the Ontario Municipal Board to set forth in its order the reasons for granting or refusing an appeal.	This submission should not be acted on. The present requirement for the Ontario Municipal Board to give reasons for its decision if requested to do so by persons appearing at the hearing is sufficient.	No consensus
107	42(20). Clarify the manner of issuing certificates and the role of the secretary-treasurer when the consent decision has been made by the Ontario Municipal Board on appeal.	This submission should be acted on.	No consensus
108	42(16) and 42(20). Provide that the decision of the Ontario Municipal Board when it becomes final and binding stands in the place of the decision of the committee, and that the secretary-treasurer shall give a certificate to the applicant stating that the consent has been given.	This submission should be acted on. The section now does not make it clear in the case of an appeal respecting a consent, by whom and when the necessary certificate is to be given.	No consensus

No.	Section/Submission	Recommended Action	Response to PARC Recommendation
109	42(18) and 42(19). Subsection (18) should be amended to require the secretary of the Ontario Municipal Board to send a copy of its order on appeal to the clerk of the municipality. Subsection (19) should be repealed.	This submission concerning subsection (18) should not be acted on as it is administratively cumbersome. Subsection (19) is cumbersome and should be repealed.	Disagreed

APPENDIX 11

Ontario

Office of the Minister

Ministry of Housing

416-965-6456

Hearst Block
Queen's Park
Toronto Ontario
M7A 2K5
416 965-6456

M7A 2K5

June 28, 1977.

Dear Sir/Madam:

I am pleased to enclose a copy of the "Report of the Planning Act Review Committee". The Committee was established to examine the nature and process of municipal planning in Ontario, to evaluate the instruments used to carry it out and to make recommendations on how the present system might be improved. This is the first such comprehensive review to be undertaken since The Planning Act was passed in 1946.

I must stress that the report contains the recommendations of an independent committee appointed by the Province. Before any major decisions are made by the government and any action is taken on substantial changes to the present planning system, I want to be sure that ample provision is made for public response to the Committee's proposals.

I therefore invite your comments on the report and ask that you send them by October 15, 1977 to the following address:

Planning Act Review
Local Planning Policy Branch
Ministry of Housing
56 Wellesley St. West
Toronto, Ontario, M7A 2K4

The report is a significant statement on municipal planning, and is deserving of your serious attention.

Yours sincerely,

John R. Rhodes,
Minister.

Attachment

APPENDIX 111

SUBMISSIONS RECEIVED IN RESPONSE TO THE REPORT OF THE PLANNING ACT REVIEW COMMITTEE

METROPOLITAN, REGIONAL, DISTRICT AND RESTRUCTURED MUNICIPALITIES

Submission #	Received from	Date of Submission
101	Regional Municipality of Durham	Oct. 20
301	"	Jan. 4, 1978
144	Regional Municipality of York	Oct. 18
173	Regional Municipality of Halton	Nov. 1
236	Metropolitan Toronto	Dec. 5
263	District Municipality of Muskoka	Dec. 28
267	Regional Municipality of Niagara	Dec. 28
279	Regional Municipality of Peel	Dec. 29
302	Regional Municipality of Hamilton-Wentworth	Jan. 5, 1978
324	Restructured County of Oxford	Jan. 6, 1978
346	Regional Municipality of Haldimand-Norfolk	Jan. 11, 1978

COUNTIES

18	County of Lambton	Sept. 9
61	County of Grey	Oct. 12
113	County of Perth	Oct. 19
186	County of Elgin	Nov. 9
266	County of Middlesex	Dec. 28
299	County of Wellington and 3 county joint planning boards	Jan. 4, 1978
300	County of Simcoe	Jan. 4, 1978
341	United Counties of Stormont, Dundas & Glengarry	Jan. 11, 1978
345	County of Victoria	Jan. 12, 1978

LOCAL MUNICIPALITIES OUTSIDE REGIONS

3	City of Kingston	July 25
9	City of Cornwall	Aug. 8

LOCAL MUNICIPALITIES OUTSIDE REGIONS (CONT'D)

Submission #	Received from	Date of Submission
28	Town of Tecumseh	Sept. 21
29	Township of Bangor, Wicklow & McClure	Sept. 21
35	Township of Colchester North	Sept. 27
36	Village of Ailsa Craig	Sept. 27
49	Village of Wheatly	Oct. 5
51	Township of Morson	Oct. 5
54	Township of Moore	Oct. 7
55	Township of Red Lake	Oct. 12
56	Township of Pince	Oct. 12
62	Village of Grand Bend	Oct. 12
63	Townships of Billings and Allan East	Oct. 12
65	Township of Puslinch	Oct. 12
68	Township of Westminster	Oct. 12
69	Township of Logan	Oct. 13
70	Township of Camden East	Oct. 13
74	Town of Almonte	Oct. 14
187	Township of South-West Oxford	Nov. 9
198	"	Nov. -
79	Township of Wallace	Oct. 13
81	Township of Cramahe	Oct. 14
83	Township of Fullarton	Oct. 14
85	Town of Mitchell	Oct. 14
86	Township of Front of Escott	Oct. 14
106	Village of Milverton	Oct. 19
107	Township of Jaffray and Melick	Oct. 19
109	Township of Shuniah	Oct. 19
111	Town of Mount Forest	Oct. 19
121	Township of North Burgess	Oct. 20
132	Township of Elma	Oct. 19

LOCAL MUNICIPALITIES OUTSIDE REGIONS (CONT'D)

Submission #	Received from	Date of Submission
133	Township of Downie	Oct. 19
137	Township of Plympton	Oct. 19
138	Township of Mono	Oct. 19
148	City of Chatham	Oct. 21
152	Town of Strathroy	Oct. 24
169	City of Barrie	Nov. 1
171	Township of Mornington	Nov. 1
183	Township of Collingwood	Nov. 1
184	Town of Midland	Oct. 27
190	Township of North Easthope	Nov. 10
175	Town of Aylmer	Nov. 3
206	Town of Goderich	Nov. 16
237	City of Stratford	Dec. 6
219	City of Guelph	Nov. 29
222	Town of Penetanguishene	Dec. 5
224	Town of Ingersoll	Dec. 6
247	City of Sarnia	Dec. 19
248	Township of Bruce	Dec. 21
270	Town of Geraldton	Dec. 28
273	City of Brantford	Dec. 29
282	Township of Marathon	Dec. 29
287	Township of Sombra	Dec. 29
296	Town of Wasaga Beach	Jan. 2, 1978
298	Township of Rochester	Jan. 4, 1978
317	City of Sault Ste. Marie	Jan. 10, 1978
318	City of Thunder Bay	Jan. 10, 1978
319	City of London	Jan. 6, 1978
358	Township of Galway and Cavendish	Jan. 24, 1978

LOCAL MUNICIPALITIES OUTSIDE REGIONS (CONT'D)

Submission #	Received from	Date of Submission
360	Town of Southampton	Jan. 25, 1978
371	Town of Prescott	Jan. 30, 1978
381	Township of St. Joseph	Feb. 16, 1978
126	Township of Melancthon	Oct. 20

MUNICIPALITIES WITHIN REGIONS

6	Town of Brock	Aug. 3
10	Town of Ajax	Aug. 19
14	Town of Milton	Sept. 6
16	Borough of Scarborough	Sept. 6
369	"	Jan. 30, 1978
374	"	Feb. 9, 1978
30	City of Kitchener	Sept. 22
33	Township of Scugog	Sept. 23
38	City of Oshawa	Sept. 29
42	Township of Brock	Oct. 4
53	City of Waterloo	Oct. 7
67	City of Port Colborne	Oct. 12
76	Village of Rockcliffe Park	Oct. 14
96	Township of Flamborough	Oct. 12
128	Township of King	Oct. 17
140	City of Vanier	Oct. 19
143	Township of Wilmot	Oct. 13
151	Township of Lake of Bays	Oct. 21
162	Town of Oakville	Oct. 25
181	City of Cambridge	Nov. 7
192	Borough of York	Nov. 16
211	Township of Glanbrook	Nov. 18

MUNICIPALITIES WITHIN REGIONS (CONT'D)

Submission #	Received from	Date of Submission
217	Town of Ancaster	Nov. 25
386	"	March 1
218	Borough of Etobicoke	Nov. 29
221	Town of Niagara-On-The-Lake	Dec. 5
227	Township of Muskoka Lakes	Dec. 7
255	"	Dec. 22
209	Town of Vaughan	Nov. 16
242	Town of Aurora	Dec. 19
249	City of Toronto	Dec. 21
251	Borough of North York	Dec. 21
258	City of Hamilton	Dec. 22
259	Township of Norfolk	Dec. 22
275	Town of Pickering	Dec. 29
290	City of Burlington	Jan. 3, 1978
295	City of Thorold	Jan. 4, 1978
351	"	Jan. 16, 1978
304	Township of Woolwich	Jan. 5, 1978
305	Town of Grimsby	Jan. 5, 1978
306	Borough of East York	Jan. 5, 1978
314	Town of Markham	Jan. 6, 1978
323	Township of Rideau	Jan. 10, 1978
348	Town of Bracebridge	Jan. 12, 1978
356	Township of Georgina	Jan. 20, 1978
353	Town of Richmond Hill	Jan. 16, 1978
354	Township of North Dumfries	Jan. 17, 1978
375	Town of Whitby	Feb. 9, 1978
280	Town of Lincoln	Dec. 29

COMMITTEES OF ADJUSTMENT

Submission #	Received from	Date of Submission
2	City of Burlington	July 7
15	Township of Scugog	Sept. 6
64	Village of Bayfield	Oct. 12
87	City of London	Oct. 17
92	Borough of Scarborough	Oct. 17
102	Regional Municipality of Sudbury	Oct. 19
168	Town of Belle River	Nov. 1
189	Township of Sarnia	Nov. 9

LAND DIVISION COMMITTEES

39	Regional Municipality of Halton	Sept. 29
103	County of Simcoe	Oct. 20
104	County of Northumberland	Oct. 19
160	County of Dufferin	Oct. 25
297	County of Essex	Jan. 4, 1978
308	Regional Municipality of Peel	Jan. 4, 1978

CONSERVATION AUTHORITIES

40	Central Lake Ontario C.A.	Sept. 29
127	Mississippi Valley C.A.	Oct. 20
136	South Lake Simcoe, C.A.	Oct. 19
141	Metropolitan Toronto and Region C.A.	Oct. 20
182	Credit Valley C.A.	Oct. 25
212	Halton Region C.A.	Nov. 18
225	Maitland Valley C.A.	Dec. 6
228	Niagara Peninsula C.A.	Dec. 14
231	Sault Ste. Marie Region C.A.	Dec. 15
245	Hamilton Region C.A.	Dec. 21

CONSERVATION AUTHORITIES (CONT'D)

Submission #	Received from	Date of Submission
250	St. Clair Region C.A.	Dec. 21
271	Otonabee Region C.A.	Dec. 28
339	Grand River C.A.	Jan. 11
SCHOOL BOARDS		
5	Peterborough, Victoria, Northumberland & Newcastle R.C.S.S.B.	July 28
377	"	Feb. 14, 1978
11	Prince Edward County B. of Ed.	Aug. 22
17	Durham Region R.C.S.S.B.	Sept. 9
20	Borough of North York B. of Ed.	Sept. 14
21	Windsor R.C.S.S.B.	Sept. 14
23	Essex County B. of Ed.	Sept. 15
26	Lakehead District R.C.S.S.B.	Sept. 16
27	Durham B. of Ed.	Sept. 21
44	Wellington County S.S.B.	Oct. 3
47	Victoria County B. of Ed.	Oct. 5
48	Carleton B. of Ed.	Oct. 5
77	City of London B. of Ed.	Oct. 14
80	North Shore B. of Ed.	Oct. 13
98	Oxford County B. of Ed.	Oct. 19
99	Dryden B. of Ed.	Oct. 19
100	Metropolitan Toronto S.B.	Oct. 19
115	Frontenac County B. of Ed.	Oct. 19
123	Simcoe County B. of Ed.	Oct. 20
135	Grey County B. of Ed.	Oct. 19
145	Leeds and Grenville County B. of Ed.	Oct. 21
146	Middlesex County B. of Ed.	Oct. 21

SCHOOL BOARDS (CONT'D)

Submission #	Received from	Date of Submission
147	Lennox and Addington County B. of Ed.	Oct. 21
153	Brant County B. of Ed.	Oct. 24
154	Lambton County B. of Ed.	Oct. 24
157	Kent County B. of Ed.	Oct. 25
158	York County B. of Ed.	Oct. 25
159	Timmins B. of Ed.	Oct. 25
161	Windsor B. of Ed.	Oct. 25
167	Huron-Perth County R.C.S.S.B.	Nov. 1
165	Kirkland Lake B. of Ed.	Oct. 27
166	Niagara South B. of Ed.	Oct. 27
172	Wellington County B. of Ed.	Nov. 1
174	Peterborough County B. of Ed.	Nov. 2
177	Perth County B. of Ed.	Nov. 3
180	Ontario Public School Trustee's Association	Nov. 7
188	City of Toronto B. of Ed.	Nov. 8
91	Stormont, Dundas & Glengarry County R.C.S.S.B.	Nov. 15
194	Borough of Scarborough B. of Ed.	Nov. 17
195	Manitoulin B. of Ed.	Nov. 14
207	West Parry Sound B. of Ed.	Nov. 22
208	Lincoln County B. of Ed.	Nov. 22
215	Elgin County S.S.B.	Nov. 25
240	Peel B. of Ed.	Dec. 14
243	Metropolitan S.S.B. (Toronto)	Oct. 17
268	Dufferin-Peel R.C.S.S.B.	Dec. 28
269	Wentworth County B. of Ed.	Dec. 28
274	Bruce County B. of Ed.	Dec. 29
286	Carleton R.C.S.S.B.	Dec. 30

SCHOOL BOARDS (CONT'D)

Submission #	Received from	Date of Submission
288	York Region R.C.S.S.B.	Jan. 4, 1978
289	Dufferin County B. of Ed.	Jan. 4, 1978
320	Waterloo County B. of Ed.	Jan. 6, 1978
376	"	Feb. 14, 1978
321	Borough of York B. of Ed.	Jan. 10, 1978
342	"	Jan. 11, 1978
322	Ottawa R.C.S.S.B.	Jan. 10, 1978
364	Peel B. of Ed.	Jan. 30, 1978
379	Lincoln County R.C.S.S.B.	Feb. 10, 1978

PLANNING BOARDS

25	Campbellford - Seymour P.B.	Sept. 16
34	Tecumseh P.B.	Sept. 26
43	Township of Sandwich West P.B.	Oct. 4
45	Brant P.B.	Oct. 5
50	Town of Deep River P.B.	Oct. 5
52	Erie/St. Clair P.B.	Oct. 6
71	Smiths Falls P.B.	Oct. 14
73	Saugeen & District P.B.	Oct. 14
82	City of Stratford P.B.	Oct. 14
91	Elliot Lake P.B.	Oct. 11
94	Storrington P.B.	Oct. 13
105	City of Pembroke P.B.	Oct. 19
118	Nipigon Town P.B.	Oct. 19
131	Tri-Town & Area P.B.	Oct. 19
78	Sioux Lookout Area P.B.	Oct. 14
134	Milverton & Mornington P.B.	Oct. 19
139	Tiny-Tay Peninsula P.B.	Oct. 19
155	Adelaide Township P.B.	Oct. 6

PLANNING BOARDS (CONT'D)

Submission #	Received from	Date of Submission
156	County of Prince Edward P.B.	Oct. 6
164	Kenora-Keewatin-Jaffray Melick Tri-Municipal Planning Committee	Oct. 27
193	Borough of York P.B.	Nov. 16
213	City of Windsor P.B.	Nov. 18
223	Paris P.B.	Dec. 5
233	Township of Tay P.B.	Dec. 19
244	Town of Port Hope P.B.	Dec. 21
256	Sarnia P.B.	Dec. 22
264	City of Toronto P.B.	Dec. 24
283	Beaver Valley P.B.	Dec. 29
291	Northwest Middlesex P.B.	Jan. 4, 1978
	Central Wellington P.B., Guelph and Suburban P.B. and North Wellington P.B. - see county of Wellington submission	
313	Bruce County South P.B.	Jan. 4
316	Sault Ste. Marie & Area P.B.	Dec. 30
338	Lower Madawaska P.B.	Jan. 10, 1978
365	Wallaceburg P.B.	Jan. 30, 1978
382	Orillia P.B.	Feb. 16, 1978
389	Town of Whitchurch-Stouffville P.B.	April 10, 1978

MUNICIPAL ASSOCIATIONS

201	Municipal Liaison Committee	Nov. 21
204	Rural Ontario Municipal Association	Nov. 21
202	Association of Counties and Regions of Ontario	Nov. 21
203	Association of Municipalities of Ontario	Nov. 21
214	Provincial Association of Committees of Adjustment and Land Division Committees	Nov. 22

INTEREST GROUPS

DEVELOPMENT/REAL ESTATE INDUSTRY

Submission #	Received from	Date of Submission
72	Victoria Wood Development Corp.	Oct. 14
75	George Tyska Ltd., Thunder Bay	Oct. 14
120	Hamilton and District Home Builders Association of HUDAC	Oct. 20
129	Inducon Consultants of Canada Ltd.	Oct. 19
185	Building Owners and Managers Association of Metropolitan Toronto	Nov. 9
307	Toronto Home Builders Association	Jan. 5, 1978
272	Housing & Urban Development Association of Canada	Dec. 29
349	Urban Development Institute	Jan. 5, 1978
114	S.B. McLaughlin Associates Ltd.	Oct. 19

PROFESSIONS

19	Blakney, John F. (Lawyer)	Sept. 13
32	Association of Ontario Land Surveyors	Sept. 23
90	Williams Smith Associates Ltd.	Oct. 17
110	John Williams Associates Ltd.	Oct. 19
119	Henry Fliess and Partners Architects	Oct. 20
246	Marshall Macklin Monaghan Ltd.	Dec. 21
253	Toronto Architects Planning Evaluation Committee	Dec. 21
254	Shepherd & Laschuk, Barristers & Solicitors	Dec. 22
262	Municipal Law Section, Canadian Bar Association (Ontario)	Dec. 28
310	Ontario Association of Planners	Jan. 3, 1978
311	Ontario Association of Landscape Architects	Jan. 4, 1978
325	Municipal Engineers Association	Jan. 6, 1978
326	Ontario Institute of Agrologists	Jan. 6, 1978

PROFESSIONS (CONT'D)

Submission #	Received from	Date of Submission
327	Ontario Association of Architects	Jan. 10, 1978
337	Regional Planning Commissioners	Jan. 8, 1978
352	The Kleinfeldt Group, Engineers and Planners	Jan. 16, 1978
361	Real Property Section, C.B.A.	Jan. 25, 1978
362	R.R. Higgins & Associates (R.A. Hardie and B.G. Scheifele)	Jan. 30, 1978
391	Ontario Building Officials Association	May 8, 1978

ASSOCIATIONS

24	Wellington Federation of Agriculture	Sept. 14
229	Small Communities Committee	Dec. 15
312	Preservation of Agricultural Lands Society	Jan. 5, 1978
344	Association of Peel People Evaluating Agricultural Land	Jan. 12, 1978
387	Ontario Federation of Agriculture	March 22, 1978
7	Ontario Welfare Council	Aug. 3
12	Sault Ste. Marie & District Association for Mentally Retarded	Aug. 26
66	Ontario Association of Property Standards Officers	Oct. 12
88	Ontario Real Estate Board	Oct. 17
112	Aggregate Producer's Association of Ontario	Oct. 19
117	Heritage Stratford	Oct. 19
392	Community Service Council of Guelph and District	Oct. 20
125	Social Planning Council of Ottawa-Carleton	Oct. 20
170	Family Services Association of Metropolitan Toronto	Nov. 1
200	Bureau of Municipal Research	Nov. 21
205	Ontario Chamber of Commerce	Nov. 1

ASSOCIATIONS (CONT'D)

Submission #	Received from	Date of Submission
210	Social Planning & Research Council of Hamilton & District	Nov. 18
216	Social Planning Council of Metro Toronto	Nov. 9
220	Board of Trade of Metro Toronto	Dec. 2
230	Niagara Falls Regional Real Estate Association	Dec. 15
238	Toronto Redevelopment Advisory Council	Dec. 6
239	Provincial Council of Women of Ontario	Dec. 19
265	Guelph & District Real Estate Board	Dec. 28
328	Soil Conservation Society of America, Ontario Chapter	Jan. 6, 1978
278	Ontario Association for the Mentally Retarded	Dec. 29
281	Lakehead Social Planning Council	Dec. 29
292	The Conservation Council of Ontario	Jan. 4, 1978
284	Community Planning Association of Canada	Dec. 30
309	Social Planning Council of Peel	Jan. 3, 1978
330	Burlington Social Planning Council	Jan. 6, 1978
331	Toronto Field Naturalists' Club	Jan. 9, 1978
355	Simcoe & District Real Estate Board	Jan. 18, 1978
357	Brampton Local Architectural Conservation Advisory Committee	Jan. 20, 1978

INDIVIDUALS

22	Scheer, Reeves, Smith, Burlington	Sept. 14
41	Lois James, R.R. 4, Markham	Oct. 4
46	J.B. Goodfellow, Burlington	Oct. 5
57	P.N. Blakey, Porcupine	Oct. 12
58	F.D. Lillico, Kenora	Oct. 12
59	Mark L. Dorfman, Waterloo	Oct. 12

INDIVIDUALS (CONT'D)

Submission #	Received from	Date of Submission
60	R. Kohut, Sarnia	Oct. 12
84	Dr. R. Sinha, Ottawa	Oct. 14
89	R.D. Pinkney, Georgetown	Oct. 17
95	William S. Hallo, Lambton	Oct. 14
108	Regula Modlich, Toronto	Oct. 19
116	John B. Sampson, Kingston	Oct. 19
124	Elizabeth Lauzon, Windsor	Oct. 20
149	John Fisher, Rodney	Oct. 21
150	R.W. Yungblut, Fonthill	Oct. 21
178	Krys Sowa, Sudbury	Nov. 3
179	John N. Jackson, St. Catharines	Nov. 7
176	W.E. Mallory, Barrie	Nov. 3
196	J.R. Barr, St. Catharines	Nov. 18
197	H. Yeghouchian, Toronto	Nov. 14
232	David Godley, Toronto	Dec. 16
234	Eli Ophek, Willowdale	Dec. 13
252	A. Garfin, Willowdale	Dec. 21
257	Bob Clark, Cobourg	Dec. 22
276	Waterloo Planners, Waterloo	Dec. 29
285	Lloyd W. Hutton, Kincardine	Dec. 30
293	Eric Grove, Hamilton	Dec. 30
294	Maitland Warder, Lion's Head	Jan. 4, 1978
332	John O'Grady, Toronto	Jan. 10, 1978
333	Rodney L.K. Smith, Toronto	Jan. 9, 1978
334	Molly Thurgelstad, Kenora	Jan. 9, 1978
335	R.S. Johnson, Ajax	Jan. 9, 1978
343	Eldon P. Ray, Peterborough	Jan. 11, 1978

INDIVIDUALS (CONT'D)

Submission #	Received from	Date of Submission
347	M. Michael, Whitby Barbara Heidenreich, Fraserville Robert Johnson, Ajax	Jan. 13, 1978
350	M. Smith, Islington	Jan. 16, 1978
368	Mrs. W. Riese, Ottawa	Jan. 30, 1978
370	Bruce MacNabb, Ottawa	Jan. 27, 1978

RATEPAYERS' ASSOCIATIONS

4	Ameliasburgh Ratepayers Association	July 12
93	Urban League of London	Oct. 14
226	Owenwood Residents Association, Mississauga	Dec. 6
303	Federation of Metro Tenants Associations	Jan. 5, 1978
363	York Mills Valley Association	Jan. 28, 1978

ACADEMIC INSTITUTIONS

122	Georgian College of Applied Arts and Technology	Oct. 20
372	University of Waterloo, School of Urban & Regional Planning	Jan. 30, 1978

MISCELLANEOUS

37	St. Clair Parkway Commission	Sept. 27
97	C.P. Rail	Oct. 14
336	Steel Company of Canada Ltd.	Jan. 9, 1978
329	Canada-Ontario Rideau-Trent-Severn	Jan. 9, 1978
130	Dept./Regional Economic Expansion (federal)	Oct. 19
13	Central Mortgage and Housing Corporation	Aug. 29
315	Environmental Assessment Board	Jan. 6, 1978
380	Ontario Economic Council	Feb. 14, 1978 March 29, 1978

Ministry of Housing

The Honourable Claude F. Bennett, *Minister*
Richard Dillon, *Deputy Minister*
Wojciech Wronski, *Assistant Deputy Minister Community Planning*
John Bell, Q.C., *General Counsel*

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